DOCUMENT RESUME

ED 094 067 UD 014 416

TITLE	Federal Assistance to Desegregating School Districts: A Report on Activities from September 1973 to March 1974.
INSTITUTION	Office of Education (DHEW), Washington, D.C.
PUB DATE	30 Mar 74
NOTE	432p.
EDRS PRICE	MF-$0.75 HC-$21.00 PLUS POSTAGE
DESCRIPTORS	Educational Finance; Federal Aid; Federal Programs; Government Publications; Grants; Integration Methods; *Program Administration; *Program Development; Program Evaluation; Projects; Racial Integration; *School Districts; *School Integration; Urban Education
IDENTIFIERS	*Emergency School Aid Act Title VII; ESAA Title VII

ABSTRACT

The contents of this report, which discusses the modifications, revisions, and new program developments which have occurred as a result of the administrative experience in implementing the first stage of the Emergency School Aid Program during fiscal year 1973, are organized into seven parts. Part 1, "Administrative Procedure," includes an "Overview of Revisions" and a discussion of the "Comprehensive Management Manual." Part 2, "Program Development Activities," discusses "Emergency Special Projects" and "Special ESA Arts Program." Part 3 reviews "Publications in the Federal Register." Part 4 summarizes "ESA Funding Criteria and Reservation of Funds." Part 5, "Evaluation Activities," highlights first the "Emergency School Assistance Program" and then the "National Evaluation of ESA Basic and Pilot Programs." Part 6 reports on the "Discrimination of ESA Metropolitan Area Projects." Part 7 discusses the "National Advisory Council." Seven appendixes are included, comprising: OE General Provisions; Discretionary Grant Review Procedures; Section IV of ESA Comprehensive Management Manual; Federal Register, November 6, 1973, November 20, 1973, January 18, 1974, April 24, 1973, and December 7, 1973; Executive Summary of Final ESAP Evaluation Report; and National Advisory Council Minutes and First Interim Report to Congress. (Author/JM)

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FEDERAL ASSISTANCE TO DESEGREGATING SCHOOL DISTRICTS

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A REPORT ON ACTIVITIES FROM
SEPTEMBER 1973 to MARCH 1974

Emergency School Aid Act (Title VII, Public Law 92-318)

As Required Under Provisions of
Section 714, Title VII, Public Law 92-318

March 30, 1974

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Caspar W. Weinberger, Secretary
Charles B. Saunders Jr., Acting Assistant Secretary for Education

OFFICE OF EDUCATION
John R. Ottina, Commissioner

UD 014410

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FOREWORD

Since enactment of the Emergency School Aid Act (ESAA) on June 23, 1972, three reports have been submitted to the Congress on activities and programs related to Federal assistance to desegregating school districts. Periodic reports are required under section 714 of the Act (Title VII of Public Law 92-318) regarding the administration and implementation of programs authorized by the Act. This is the fourth such report to the Congress on school desegregation programs, which are administered by the Assistant Secretary for Education of the U. S. Department of Health, Education, and Welfare (DHEW).

The first ESAA report was issued on September 23, 1972. It described the administration of the Emergency School Assistance Program from August 1970 to September 1972, and also projected plans for initial implementation of the Emergency School Aid Act.

On June 29, 1973, the second ESAA report was issued. It reviewed the period from September 1972 to March 1973 and primarily dealt with the developmental activities involved in designing policy objectives and program procedures for the administration of ESAA.

The third report, issued on September 28, 1973, outlined program activities from April 1973 to September 1973. These activities consisted of the initial implementation of the ESAA award procedures. The report listed all grants and contracts awarded in fiscal year 1973 and described the purpose of each of the eight program categories for which assistance was available.

This fourth report describes the program development activities which took place from September 1973 to March 1974. Specifically, the report discusses the modifications, revisions, and new program developments which have occurred as a result of the administrative experience in implementing the first stage of the Emergency School Aid Program during fiscal year 1973.

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ADMINISTRATIVE PROCEDURES

Overview of Revisions to Administrative Procedures

In preparation for the fiscal year 1974 administration of the Emergency School Aid Act, OE's Office of Equal Educational Opportunity (EEO), in May 1973, began to review and analyze the effectiveness of the administrative procedures and the requirements for the programs authorized by this Act.

Initial implementation of the Emergency School Aid program had been completed in fiscal year 1973, during which time ESA grants had been awarded under a comprehensive system of administrative procedures. EEO's efforts to determine the nature and extent of necessary revisions of these administrative procedures were based primarily on the experience gained from these first year activities. In addition to the insight provided by the previous year's experiences, these efforts included the consideration of various other factors. The ESA program was, to a great extent, administered by the 10 OE Regional Offices during FY 1973. Therefore, comments and suggestions regarding the ESA awards process were actively solicited from regional representatives at all levels.

Procedures were also modified and rewritten to conform to several directives issued from the Office of the Secretary of DHEW. These directives called for (1) the formal adoption of standard fiscal and administrative requirements for education programs which are contained in the OE General Provisions, and (2) the establishment of standard discretionary grant program review procedures, which now comprise a section in the OE Management Manual.

Copies of the OE General Provisions, as published in the Federal Register, and the Discretionary Grant Program Review Procedures are presented in Appendixes A and B, respectively.

The Comprehensive Management Manual

The ESA Comprehensive Management Manual, which was prepared in the early stages of implementation of the ESA program, contains management guidelines and serves as the principal reference for policy and procedures; it provides direction to all personnel who are responsible for implementing EEO activities. This year, the manual has been expanded to include guidelines for implementation of Title IV of the Civil Rights Act as well as for implementation of the Emergency School Aid Act. Specific details of additional modifications and revisions in the administrative system which are included in the manual are presented below.

Major Revisions. As contrasted with last year's method of funding ESA applicants in three batches, this year there is only one major funding cycle, with secondary cycles for resubmitted applications and applications requiring a reapportionment of funds among the States. This change was made in cooperation with the effort by OE to set up a discretionary grant program schedule that would bring applications in early, get them processed promptly and efficiently, and see that awards are made as early in the fiscal year as possible. Conformance to this system required several changes in the procedures for processing applications.

Multiple revisions were made of the review procedures to eliminate duplication of responsibilities, expedite application processing, and ensure the overall effectiveness of the award procedure.

Modifications of funding-decision procedures primarily affected the ESA bilingual component, Title IV of the Civil Rights Act (CRA), and the three major types of ESA programs (Basic, Pilot, and Nonprofit organizations). Final decisions on grant awards for the three major types of ESA programs are to be made by Regional Commissioners because these awards are made from funds apportioned among the States. Money is not apportioned among the States for Bilingual and Title IV-CRA programs so that Regional Commissioners recommend funding decisions for these programs; responsibility for the final approval of such awards rests with OE's Office of the Deputy Commissioner for the Bureau of School Systems in Washington.

To compensate for the decrease in information retained in the Washington office, the ESA Application Abstract was expanded. This form is completed by the Regional Offices to present a summarization of key project information. The EEO program management information system was also adjusted and improved by including a Grantee Tracking Instrument, and a Regional Monthly Activities Log. The Grantee Tracking Instrument was designed to provide a means for charting the completion of the post-award responsibilities of both grantee and grantor. The Regional Monthly Activities Log is a report which was developed for the purpose of documenting monthly the level and type of activity in the EEO Regional Offices.

In view of the important role the non-Federal panels have in the process of reviewing applications submitted under the legislative authorities administered by the Office of Equal Educational Opportunity, a non-Federal panel training package was prepared to serve as a guide to panel members. This guide specified the responsibilities of panel members in the total review process for ESA and Title IV applications.

All members of the panels became thoroughly familiar with these documents and were required to participate in preservice sessions which dealt particularly with their responsibilities in evaluating and scoring grant applications.

Monitoring procedures for the Emergency School Aid Act have undergone few revisions. The inclusion of Title IV-CRA in the monitoring was new this year. The following paragraphs highlight major aspects of these procedures for both programs.

Monitoring procedures for ESA/Title IV grants and contracts mandate a minimum of two site reviews during the grant project period. The first review will be made within the second quarter of the grant period. The second site review should be scheduled early in the third quarter of the project period. Additional site reviews will be scheduled by the Regional Office as warranted.

Regional Offices are required to submit quarterly summaries of their monitoring activities.

The principal difference between ESA and Title IV monitoring procedures is seen in the requirements concerning the activities to be conducted during site visits. The Title IV-CRA procedures included a program Operations Report which requires that the monitor make contact with the clients being served by the grantee to determine if appropriate services are being rendered.

New to the EEO administrative procedures this year was a formalized final report which all ESA grantees are required to submit within 90 days after the date of conclusion of the grant period. Reporting formats were developed in an effort to provide the ESA grantee with a better understanding of what is expected in the final report. Formats and instructions included the four major reporting areas on which information is required. These areas are as follows:

1. Final Financial Report

2. Final Program Report

3. Copies of Administrative Reports

4. Student and District-Wide Advisory Committee Reports

Section IV of the Comprehensive Management Manual for the Emergency School Aid Act is presented in Appendix C.

PROGRAM DEVELOPMENT ACTIVITIES

Emergency Special Projects

Pursuant to Subpart J of the ESA Regulations, Notices of Acceptance of Applications were published to permit the award of up to $2.8 million of the discretionary fund available pursuant to section 708(a) of the Act to address the needs of local educational agencies which developed desegregation plans too late to apply for an ESA grant in FY 1973 or 1974 according to the EEO application schedule. Local educational agencies would be eligible for funding if they (1) have developed eligible desegregation plans subsequent to April 1, 1973, and did not apply for assistance under the Emergency School Aid Act on the basis of such plans prior to July 1, 1973; (2) are required to implement their plans prior to February 10, 1974, and (3) have submitted applications for ESA assistance for the project period July 1, 1974 through June 30, 1975. The basic purpose of this emergency funding process was to make assistance available to school districts until such time as they can expect to receive an ESA grant from the regular State apportionment. Local educational agencies are also eligible if they (1) have developed eligible desegregation plans subsequent to December 10, 1973; (2) were unable to apply for assistance by the fiscal year 1974 deadline; and (3) are required to implement their plans for the academic year beginning September 1974.

For LEA's which need assistance from the period February to June 1974, the Notice of Acceptance of Applications was published in the Federal Register on January 18, 1974. The date for submission of applications was originally scheduled for February 19, 1974; that date was extended to March 18, 1974. Funds will be awarded for authorized activities for basic grants. Authorized activities are to terminate no later than June 30, 1974.

For LEA's requiring assistance for the academic year September 1974 to June 1975, the Notice of Acceptance of Applications as of this writing, has not been published in the Federal Register. Awards will be made for authorized activities beginning no earlier than July 1, 1974 and ending no later than June 30, 1975.

These awards were and will be subject to the regulations of the Emergency School Aid Act as amended, and to the Office of Education General Provisions (45CFR Part 100a).

The January 18 edition of the Federal Register appears in Appendix D.

Special ESA Arts Program

This fiscal year the Assistant Secretary for Education will use up to $1 million of the discretionary funds available pursuant to Section 708(a) of the Act for the administration of the Special Arts Program. Part 185 of Title 45 of the Code of Federal Regulations will be amended by adding an appendix to Subpart J, Special Projects. This amendment will make provisions for the award of grants to public agencies or organizations responsible for the administration of statewide, public arts programs, such as State Arts Councils and State Arts and Humanities Commissions. Such special arts projects would provide opportunities to further interracial and intercultural communication and understanding for children in schools affected by the implementation of an LEA's desegregation plan or its plan to eliminate, reduce, or prevent minority group isolation, and would assist in coordinating existing efforts for maximum impact. Activities to be assisted through this amendment must be conducted primarily with students who attend schools affected by an LEA's desegregation plan in which the proportion of minority group children enrolled is no less than 20 percent and no greater than 50 percent.

As of this writing, the Notice of Proposed Rulemaking, which will propose this amendment to Subpart J of the ESA Federal Regulations, has not been published in the Federal Register. It will specify the criteria for the award of assistance for the conduct of Special Arts Projects.

When the Notice of Acceptance of Applications for Special Arts grants is published in the Federal Register, it will specify the established dates for submission of applications and notification of awards.

PUBLICATIONS IN THE FEDERAL REGISTER

In addition to the information in the Federal Register as referred to earlier, the following publications should be noted.

Notice of Acceptance of Applications

For fiscal year 1974 ESA and Title IV applicants, Notices of Acceptance of Applications were published in the Federal Register on November 20, 1973. The notice for ESAA applied to applications for Basic, Nonprofit, Pilot, and Bilinqual grants, as well as those for Educational Television and Special Reading Projects. For Title IV grants, the notice covered State Educational Agencies, institutions of higher education, and school districts. Applications for Title IV General Assistance Centers were not covered by this notice; contracts for General Assistance Centers are governed by the Federal Procurement Regulations, necessitating the publication of a Notice of Request for Proposal.

For ESA programs, the application dates for submission and notification of awards were set as follows:

	Dates for Submission of Application	Dates for Notification of Awards
Basic, Pilot, Nonprofit Grants	December 26, 1973	March 15, 1974
Bilingual Grants	December 26, 1973	March 15, 1974
Educational Television Projects	February 15, 1974	April 6, 1974
Special Reading Projects	February 15, 1974	April 6, 1974

In accordance with Section 710(d)(2) of the Act, applicant local educational agencies are given the opportunity to rework and resubmit their proposals when required. The deadline for resubmission of ESA proposals has been set for around the first week in April.

For Title IV-CRA programs, the dates for submission and notification of awards were set as follows:

	Date for Submission of Application	Date for Notification of Awards
State Education Agencies Institutions of Higher Education, and Local Educational Agencies	December 26, 1973	February 8, 1974

The November 20 edition of the Federal Register appears in Appendix E.

Revisions of Regulations for Educational Television and Special Reading Projects

Experience in the administration of two special components of the Emergency School Aid Act, Educational Television and Special Reading Projects, indicated the need to amend the regulations for these programs. The proposed amendments were published in the Federal Register on December 7, 1973; the final version of these amendments has not yet appeared in the Federal Register. The necessary changes were (1) to avoid duplication of programming in ETV projects which were funded in the first year of ESAA, and (2) to provide for the continuation of special reading projects funded last year.

With regard to the former revision, it was believed that assistance made available in fiscal year 1973 has satisfied the need reflected by those areas of concern specified last year. In order to avoid duplication in the use of this year's funds, the regulation was amended to provide a new list of areas of concern.

With regard to the latter change, it was concluded that additional educational resources and fiscal effort are required if the goal of improving reading skills in an integrated environment is to be accomplished. Therefore, the eligibility provision for Special Reading Projects was amended to limit the award of funds in fiscal year 1974 to those districts which have substantially implemented special reading projects for which assistance was awarded prior to July 1, 1973.

Copies of the original and the proposed revised regulations are included in Appendix E.

ESA FUNDING CRITERIA AND RESERVATION OF FUNDS

As of this writing, the Notice of Funding Criteria and Reservation of Funds is being prepared for publication in the Federal Register. This notice will contain funding criteria specifying the national cut-off scores for the purpose of determining applications which were of insufficient promise for achieving the purposes of the Act, and will reserve one-third of the available funds until applicants have an opportunity to modify and resubmit such applications. Applications for assistance for the three ESA State apportionment programs (Basic, Pilot, and Nonprofit organizations) shall be considered of insufficient promise for achieving the purposes of the Act if they receive ratings below the national cut-off scores specified below:

	National Cut-Off Scores (based on criteria in)	
	45 CFR 185.14(a)	45 CFR 185.14(b)
Basic Grants	40	28
	45 CFR 185.24(a)	45 CFR 185.24(b)
Pilot Projects	45	33
	45 CFR 185.64(a)	45 CFR 185.64(b)
Nonprofit Organizations	40	28

On May 2, 1974, funds made available under the Act for Basic, Pilot, and Nonprofit grants will be reapportioned, in accordance with the legislation, from States having no need for funds to States where such need exists. The point level at which a need for funds will be considered to exist has not yet been determined. When such determination is made, publication will be made in the Federal Register.

EVALUATION ACTIVITIES

The Emergency School Assistance Program

The National Opinion Research Center (NORC), under contract to the Office of Planning, Budgeting, and Evaluation of the Office of Education, conducted an evaluation of the effects of the Emergency School Assistance Program (ESAP). The evaluation study, which was conducted during the program's second year of operation in 1971-72, involved over 32,000 fifth and tenth grade students in nearly 600 participating schools and culminated in a two-volume final report entitled Southern Schools: An Evaluation of the Emergency School Assistance Program and of School Desegregation.

The major findings of the evaluation were:

1. ESAP caused gains in academic achievement for black male high school students.

2. This achievement gain was attributable to the use of ESAP funds in ways that created effective changes in the way high schools handled racial issues.

3. Human relations programs seem to have been effective in improving the attitudes toward integration of urban white students.

4. Student achievement for both races depends less on the racial composition of the school than on the quality of race relations within the school. Attending schools with white students who have more favorable attitudes toward integration seemed to improve black performance at both grade levels. Racial tension is detrimental to white high school students' achievement.

5. Desegregation places a great deal of strain on students of both races, but the school can ease this strain by having a staff that supports desegregation, operating in a non-discriminatory way, and helping desegregation to proceed smoothly. The school environment--and especially the principal--appears to be able to change the way teachers behave toward black students even if teachers' personal feelings about race are not easily changed.

This evaluation study was transmitted to the appropriate authorization and appropriation committees of the Congress in the week of December 3, 1973 by the Commissioner of Education. A copy of the Executive Summary of the final report of the evaluation appears in Appendix F.

National Evaluation of ESA Basic and Pilot Programs

OE's Office of Planning, Budgeting, and Evaluation (OPBE) is conducting a national longitudinal evaluation of the ESAA Basic and Pilot Programs through a contract with System Development Corporation. The Basic LEA grant evaluation in combination with the Pilot Program evaluation will attempt to determine the relative effectiveness of three types of educational intervention - desegregation, desegregation in combination with compensatory education, and compensatory education without desegregation - in comparison to no special intervention in minority isolated schools. This effort should enable evaluators to determine which of the three forms of educational intervention is most effective in improving the academic achievement of minority group children. In addition to determining the relative effectiveness of these interventions, both evaluations should provide answers to questions of whether these programs are effective in raising achievement, in reducing the degree of minority isolation and in improving race relations in participating schools. The study will also attempt to answer related questions concerning the most effective means of implementing the program.

The duration of this evaluation study has not been firmly established; however, OPBE has planned a minimum of 2 years or a maximum of 3 years.

DISCONTINUATION OF ESA METROPOLITAN AREA PROJECTS

Congress, upon recommendation of its Appropriations Committees, did not appropriate fiscal year 1974 funds for ESA Metropolitan Area Projects, Section 709 of the Act. Those projects which were funded last year will continue in operation until the originally scheduled conclusion of the grant activity period.

NATIONAL ADVISORY COUNCIL

Section 716 of the Act mandates the formation of a National Advisory Council on Equality of Educational Opportunity. The Council's primary responsibilities are to

- "advise the Assistant Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications; [and]
- review the operation of the program with respect to its effectiveness in achieving its purpose as stated [previously] ......, and with respect to the Assistant Secretary's conduct in the administration of the program....."

The Act also specifies requirements for a regular schedule of meetings and for the submission of several reports to Congress by the Council. During the period September 1973 - March 1974, formal meetings of the full body of the Council were held as follows:

September 13, 14	Boston, Massachusetts
December 13, 14	San Francisco, California
January 31, February 1	Washington, D. C.

Meeting of Council Subcommittees are scheduled as needed. The dates and locations of all official meetings of the Council are published in advance in the Federal Register.

In conformance with the reporting requirement, the first Interim Report to the Congress was submitted by the Council on January 31, 1974. It describes the activities of the Council from the time it was established on January 30, 1973, to December 1973.

Copies of the approved minutes of the meetings cited above, and the First Interim Report to Congress appear in Appendix G.

CONCLUSION

The developmental activities described in this report reflect the analysis and update of program requirements and materials, the response to recent court rulings, and the subsequent decisions and plans for the fiscal year 1974 implementation of the Emergency School Aid Act. The resulting modified administrative procedures are currently being executed in the ongoing application review and funding decision process. A description of the funding process and the results of that process will be presented in the next report to Congress, scheduled for September 1974. The results of these FY 1974 funding decisions will be analyzed in relation to the needs of the Nation's schools for assistance in providing quality integrated education.

APPENDIX A

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federal register

TUESDAY, NOVEMBER 6, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 213

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

GENERAL PROVISIONS FOR PROGRAMS

Administrative and Fiscal Requirements

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Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS FOR OFFICE OF EDUCATION PROGRAMS

ADMINISTRATIVE AND FISCAL REQUIREMENTS

Notice of proposed rulemaking was published in the FEDERAL REGISTER on April 26, 1973 (38 FR 10386), setting forth general provisions for Office of Education programs. Pursuant to section 503 of the Education Amendments of 1972, a public hearing was held June 5 in Washington, D.C., on the proposed regulations. In addition, written comments were received and considered.

A. *Implementation of OMB Circular No. A-102.* 1. As noted in the preamble of the proposed rule (38 FR 10386), certain of the regulations are derived from OMB Circular No. A-102. In order to complete implementation of the Circular for the Office of Education, and pursuant to the Department's regulation (45 CFR Part 74, published on September 19, 1973, at 38 FR 26274) the general provisions have been substantially renumbered and expanded, as shown in the following table:

Final rule	Derivation	Proposed rule sections which have been renumbered	
		Proposed section numbers	Final section numbers
1. Part 100a			
Subpart A—General	Subpart A of the proposed rule (38 FR 10390).	(1)	(1)
Subpart B—Applications	Subpart B of the proposed rule (38 FR 10391).	(1)	(1)
Subpart C—Grant Application Forms for State and Local Governments.	45 CFR Part 74, Subpart N (38 FR 26284).	(2)	(2)
Subpart D—Federal Financial Participation.	Subpart C of the proposed rule (38 FR 10393).	100a.40 100a.41 100a.42 100a.43 100a.44 100a.45	100a.50 100a.51 100a.52 100a.53 100a.54 100a.55
Subpart E—Grant Payment Requirements.	45 CFR Part 74, Subpart K (38 FR 26282).	(2)	(2)
Subpart F—Cash Depositories	45 CFR Part 74, Subpart B (38 FR 26277).	(2)	(2)
Subpart G—Cost Principles	45 CFR Part 74, Subpart Q (38 FR 26286) Cf. § 100a.50 of the proposed rule (38 FR 10393).	100a.50	100a.81, 100a.82, 100a.83
Subpart H—Matching and Cost Sharing.	45 CFR Part 74, Subpart G (38 FR 26278).	(2)	(2)
Subpart I—Procurement Standards	Appendix E to the proposed rule (38 FR 10429). 10429).	(1)	(1)
Subpart J—Bonding and Insurance	§ 100a.165 of the proposed rule (38 FR 10396).	100a.165	100a.120, 100.a121, 100a.122
Subpart K—Construction Requirements.	Subpart E of the proposed rule (38 FR 10394).	(1)	(1)
Subpart L—Property Management Standards.	Subpart F of the proposed rule (38 FR 10396) and 45 CFR 74.130-74.133 (38 FR 26284).	100a.200 100a.201 100a.202 100a.203	100a.215 100a.216 100a.217 100a.219
Subpart M—Program Income	45 CFR Part 74, Subpart F (38 FR 26278) Cf. (38 FR 10407).	(2)	(2)
Subpart N—Miscellaneous Requirements.	Subpart D of the proposed rule (38 FR 10395).	100a.43 100a.64 100a.76 100a.80 100a.98 100a.99 100a.100 100a.101 100a.107 100a.110 100a.111 100a.150	100a.250 100a.256 100a.258 (2) 100a.260 100a.261 100a.262 100a.268 100a.270 100a.275 100a.276 100a.280
Subpart O—Financial Management Systems.	45 CFR Part 74, Subpart H (38 FR 26279).	(2)	(2)
Subpart P—Financial Reporting Requirements.	45 CFR Part 74, Subpart I (38 FR 26280).	(2)	(2)
Subpart Q—Monitoring and Reporting of Program Performance.	45 CFR Part 74, Subpart J (38 FR 26281).	(2)	(2)
Subpart R—Accountability for Federal Funds.	Subpart G of the proposed rule (38 FR 10397) and 45 CFR 74.111 (38 FR 26283).	100a.277 100a.278 100a.279 100a.280 100a.281 100a.282 100a.283 100a.295 100a.296	100a.477 100a.201 (h) (2) (2) 100a.481 100a.482 100a.483 100a.485 (2)
2. Part 100b			
Subpart A—General	Subpart A of the proposed rule (38 FR 10408).	(1)	(1)
Subpart B—State Plans	Subpart B of the proposed rule	(1)	(1)
Subpart C—[Reserved]			
Subpart D—Federal Financial Participation.	Subpart C of the proposed rule	100b.42 100b.43 100b.44 100b.45 100b.50 100b.51 100b.52	100b.52 100b.53 (2) 100b.55 100b.61, 100b.62, 100b.63 100b.65 100b.66
Subpart E—Grant Payment Requirements.	45 CFR Part 74, Subpart K (38 FR 26282).	(2)	(2)
Subpart F—Cash Depositories	45 CFR Part 74, Subpart B (38 FR 26277).	(2)	(2)
Subpart G—Cost Principles	45 CFR Part 74, Subpart Q (38 FR 26286) Cf. § 100b.50 of the proposed rule (38 FR 10409).	100b.50	100b.61, 100b.62, 100b.63
Subpart H—Matching and Cost Sharing.	45 CFR Part 74, Subpart G (38 FR 26279).	(2)	(2)

Final rule	Derivation	Proposed rule sections which have been renumbered	
		Proposed section numbers	Final section numbers
Subpart I—Procurement Standards	Appendix E to the proposed rule (38 FR 10420).	(1)	(1)
Subpart J—Bonding and Insurance	100b.165 of the proposed rule (38 FR 10402).	100b.165	100b.120, 100b.121, 100b.122
Subpart K—Construction Requirements	Subpart E of the proposed rule (38 FR 10401).	(1)	(1)
Subpart L—Property Management Requirements.	Subpart F of the proposed rule (38 FR 10402) and 45 CFR 74.130-74.153 (38 FR 26284).	100b.200 100b.201 100b.202 100b.203	100b.215 100b.216 100b.217 100b.218
Subpart M—Program Income	45 CFR Part 74, Subpart F (38 FR 26278).	(2)	(2)
Subpart N—Miscellaneous Requirements.	Subpart D of the proposed rule (38 FR 10400).	100b.63 100b.64 100b.66 100b.76 100b.80 100b.100 100b.108 100b.110	100b.250 100b.254 100b.257 100b.258 (4) 100b.262 100b.274 100b.275
Subpart O—Financial Management Systems.	45 CFR Part 74, Subpart H (38 FR 26279).	(2)	(2)
Subpart P—Financial Reporting Requirements.	45 CFR Part 74, Subpart I (38 FR 26280).	(2)	(2)
Subpart Q—Monitoring and Reporting of Program Performance.	45 CFR Part 74, Subpart J (38 FR 26281).	(2)	(2)
Subpart R—Accountability for Federal Funds.	Subpart G of the proposed rule	100b.277 100b.278 100b.279 100b.280 100b.281 100b.282 100b.283 100b.284 100b.285	100b.477 100b.301(b) (5) (6) 100b.481 100b.482 100b.483 100b.484 100b.486

[1] No renumbering.
[2] No renumbering—new subpart.
[3] No renumbering except § 100a.165.
[4] Deleted.
[5] See 100a.400-100a.407, 100a.430-100a.436.
[6] See 100a.486.
[7] See subpart E of the final regulations.

2. The regulations which have been added to Subchapter A pursuant to 45 CFR Part 74 (38 FR 26274) constitute the Commissioner's adoption of the standards set forth in Part 74.

3. Since the standards contained in OMB Circular No. A-102 have previously been published in the FEDERAL REGISTER, it has been determined that these additions to the general provisions will take effect concurrently with those sections of the regulations which were previously published in the notice of proposed rulemaking on April 26, 1973 (38 FR 10386).

B. *Summary of comments; changes in the regulations*. The following comments were submitted to the Office of Education regarding the proposed regulations, either at the public hearing held on June 5, 1973, or in writing. After the summary of each comment, a response is set forth stating changes which have been made in the regulations, or the reasons why no change is deemed necessary. The comments are arranged in order of the sections of the final regulations. Where the section number in the final regulations differs from that in the proposed rule, the proposed section number is also identified.

1. Section 100.1 *Definitions.—Comments*. A commenter suggested that the definition of "service function" is meaningful only to those in public elementary and secondary education.

Response. The definition has been amended to make it clear that it is to be used only in conjunction with the term "local educational agency."

Comment. A commenter suggested that the definitions of "equipment," "materials," and "supplies" were not in conformity with the pattern reflected in the definitions of "personal property," "expendable personal property," and "nonexpendable personal property."

Response. Many statutes under which the Office of Education provides assistance retain the concepts of "equipment," "materials," and "supplies." While the property management standards in the general provisions (Subpart L in Part 100a and Part 100b) are based on the concept of expendable-nonexpendable personal property, it is useful to retain across-the-board definitions for the other terms as well. Therefore, no change is deemed necessary.

Comment. A commenter suggested that the definition of "fellowship" would cause confusion, since it is not adequately differentiated from a "scholarship" (which is not defined), and is not characterized sufficiently as to form and source.

Response. The definition has been deleted.

2. Section 100a.10 *Scope.—Comment*. Two commenters objected to the inclusion of the educational broadcasting facilities program and the Corporation for Public Broadcasting under Part 100a (§ 100a.10(a)(14)). One commenter suggested that overlapping requirements would result which would make the processing of grant applications more difficult. The other commenter felt that Part 100a would defeat the purpose of the program by permitting States to use the Federal funds "as a part of a basic appropriation," rather than to supplement public television programming.

Response. (a) The Corporation for Public Broadcasting was included in §100a.10(a)(14) by inadvertence, since it is not a discretionary grant program administered by the Commissioner. The reference has been deleted. With respect to the possibility of overlapping requirements, this will be avoided to the maximum extent possible.

(b) In response to second commenter, the general provisions do not overrule statutory provisions which govern individual assistance programs.

(c) Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92-318), the regulations for the educational broadcasting facilities program will be published in the FEDERAL REGISTER as a notice of proposed rulemaking in the near future. It is contemplated that certain provisions of Part 100a will be made inapplicable to the program, pursuant to § 100a.10(a). Persons interested in this program should submit their comments on its relationship to the general provisions at that time.

3. Section 100a.16 *Project description.—Comment*. A commenter objected to the information required in an application by § 100a.16 regarding the project director and project staff, and the requirement in § 100a.260 (§ 100a.98 in the proposed rule), that the Commissioner be notified of changes in the project director and key professional staff. The commenter felt that it should not be the function of the Office of Education to ascertain qualifications or expertise of persons managing Federal programs.

Response. It is felt that the qualifications and expertise of the project director and his staff are central to the success of a project. The Office of Education is under an obligation to assist those projects qualifying under Federal programs which are most likely to meet the purposes of the legislation. Therefore, the requirements regarding the project director and staff have not been changed.

4. Section 100a.18 *Designation and certification of agency to administer the project.—Comment*. Section 100a.18(b) requires that an application for Federal assistance gives assurance that it has been "adopted" by the applicant. A commenter has suggested that the term "adopted" is meaningless to nongovernmental applicants.

Response. Applications for assistance made to the Office of Education must come from the agencies, organizations, or institutions which are eligible under the particular statutory program. Individuals are not eligible applicants. In each case, the Office of Education must be assured that the applicant has taken whatever institutional steps are necessary to make the application its own. This is the intent of the term "adopted." No change in the regulation is deemed necessary.

5. Section 100a.19 *Cooperative arrangements.—Comment*. A commenter expressed concern that some institutions

may not have authority to be a "joint legal recipient" of a grant under § 100a.19 (c). The commenter requested that an option be provided for a single recipient, with subgrants or subcontracts to other participants.

Response. Section 100a.19, as written, does not require joint applications, nor does it preclude subcontracts. The statutes to which Part 100a applies do not authorize grantees to make subgrants, although they may enter into service contracts. The regulation merely provides an optional means which eligible parties may use to apply for funds, if they have the desire and authority to do so. No change has been made in the regulation.

6. Section 100a.20 *Effective date of approved project.—Comment*. A commenter asked the Commissioner to retain the option of approving preaward costs.

Response. The regulation does not preclude preaward costs, if such costs were not incurred prior to the effective date set forth in the award document. It should be noted that the regulation does not require that the effective date be the same as the date on which the award is signed. No change in the regulation is needed.

7. Section 100a.28 *Amendments.—Comment*. A commenter objected to unilateral amendments by the Commissioner based on changes in regulations or policies.

Response. The regulation has been amended to eliminate this requirement. Amendments may still be initiated by the Commissioner if mandated by Federal appropriations or laws governing the award.

8. Section 100a.30 *Service contracts.—Comment*. A commenter objected to the requirement that an application must be amended if the applicant wishes to contract out part of the work under the project. He suggested that prior approval of those contracts be required instead.

Response. It should be noted that if the original application contained a statement of the applicant's intent to enter into service contracts, no later amendment would be necessary. Prior approval of service contracts by the Commissioner is precluded, except in very limited circumstances, under Subpart I of Part 100a (Appendix E to Subchapter A in the proposed rule). The application and amendments to the application are the only way the Commissioner can exercise control over what entity actually performs under a grant or contract. No change in the regulation has been made.

9. Section 100a.31 *Preapplications.—Comment*. A commenter stated that the general provisions would require submission of a preapplication under the educational broadcasting facilities program if the standards in OMB Circular No. A-102 were followed, and objected to this requirement.

Response. Section 100a.31 makes the submission of a preapplication mandatory only when required by the Commissioner for a particular program. Section 100a.41 states, among other things, that a preapplication shall be used for construction projects where "the need for Federal funding exceeds $100,000." Section 100a.40 limits § 100a.41 by making it applicable only to State and local governments, as defined in § 100.1. Therefore, except for construction projects of State and local government which exceed $100,000, and programs where the Commissioner has determined otherwise, preapplications are not required. No change in the regulation has been made.

10. Section 100a.53 *Payments*. (§ 100a.43 in the proposed rule). *Comment*. A commenter suggested that Treasury Department letters of credit be recognized as an approved method of payment.

Response. The suggestion has been adopted in §§ 100a.62 and 100a.63.

11. Section 100a.54 *Duration of project*. (§ 100a.44 in the proposed rule). *Comment*. A commenter suggested that there is an inconsistency between the concept of a "fiscal year" (defined in § 100.1) and § 100a.54(b), which permits extension of the period for completing a project under certain circumstances. The commenter asked for "fiscal regulations that make for better management."

Response. Section 100a.54(b) provides for relief for recipients who run into special or unforeseen difficulties in completing a project. Its procedures are not intended to substitute for good project management. No change in the regulation is necessary. As to the comment regarding better fiscal management, it is hoped that the new Subparts which have been added to the regulations will be useful in meeting the commenter's request. Subparts E, F, O, and P in particular contain fiscal management requirements.

12. Section 100a.55 *Obligation by recipients*. (§ 100a.45 in the proposed rule). *Comment*. A commenter objected to the requirement that obligations be liquidated by recipients within one year following the period for obligation, pointing out that there is already a time limit for submitting fiscal reports.

Response. The requirement objected to has been deleted.

13. Subpart J—*Bonding and Insurance* (§§ 100a.120–100a.122) (§ 100a.165 in the proposed rule). *Comment*. A commenter asked that recipients be permitted to carry the insurance required of contractors under this section.

Response. The only "insurance" required of contractors under this regulation are performance and payment bonds for contracts under grants and subcontracts which exceed $100,000. It is felt that for these limited areas, the regulation should be retained as written.

14. Section 100a.215 *Nonexpendable personal property*. (§ 100a.200 in the proposed rule). *Comment*. A commenter asked whether Pub. L. 85-934 (the Grant Act) applies to Office of Education research agreements.

Response. The Grant Act applies only to scientific research. For education programs, section 436 of the General Education Provision Act (20 U.S.C. 1232e) governs vesting of title and waiver of accountability for equipment only with respect to State and local governments.

15. Section 100a.261 *Dual compensation*. (§ 100a.99 in the proposed rule). *Comment*. Two commenters felt that § 100a.99 would prevent an employee from being a consultant at a second institution.

Response. Section 100a.261 will not prevent an employee from also being a consultant at a second project, even a second federally-assisted project. The regulation merely prohibits him from receiving double payment for any given period of work. No change in the regulation is necessary.

16. Section 100a.263 *Data-collection instruments*. (§ 100a.101 in the proposed rule). *Comment*. A commenter asked that parental consent not be required for the instruments specified in § 100a.263(b) (§ 100a.101(b)(2)(ii) of the proposed rule).

Response. The regulation has been amended to incorporate this suggestion.

Comment. A commenter requested that clearance of forms under § 100a.263 be limited to special cases where special protection is needed.

Response. The regulation has been modified to provide that data collection instruments will only be submitted to and approved by the Commissioner upon request of the recipient or where the award specifically so provides.

17. Section 100a.275 *Coordination*. (§ 100a.110 in the proposed rule). *Comment*. A commenter suggested that the coordination required under this regulation would be a complete impossibility for nongovernmental institutions.

Response. The regulation has been amended by adding the phrase "to the extent feasible." This change is intended to eliminate the possibility of imposing impossible conditions on a recipient, while retaining the idea that a recipient must seek to avoid duplication of effort and to avail itself of information regarding current activities and knowledge in the field with which the project is concerned.

18. Section 100a.301 *Standards*. (Paragraph (h) of § 100a.301 was § 100a.278 in the proposed rule). *Comment*. Two commenters objected to the requirement in § 100a.278 of the proposed rule that recipients other than State and local governments provide for independent audits of their records and activities. The commenters felt that the expense of such audits would be prohibitive, and that Federal audits should be relied on instead.

Response. Section 100a.301(h) does not require audits by recipients other than State and local governments. The change conforms to Department policy set forth in 45 CFR 74.61(h) (38 FR 26279).

19. Section 100a.481 *Unexpended funds*. (§ 100a.281 in the proposed rule). *Comment*. A commenter stated that § 100a.481 "is not clear regarding unexpended funds."

Response. Section 100a.481 is intended to provide for a situation where Federal funds have not been obligated by a recipient pursuant to its approved project, and, in the judgment of the Commissioner, will not be obligated for project purposes. In such cases, the Commissioner may reduce the amount of Federal funds available for obligation, subject to the procedures set forth in § 100a.495 (termination and suspension for cause—§ 100a.295 in the proposed rule). No change in the regulation is deemed necessary.

20. Section 100a.483 *Waiver of law prohibited.* (§ 100a.283 in the proposed rule). *Comment.* A commenter suggested that § 100a.483 as written would prevent the Commissioner from amending his own regulations.

Response. The regulation has been amended to make it clear that regulations may be amended by the Commissioner through publication in the FEDERAL REGISTER.

21. Section 100a.494 *Closeout.* (Paragraph (b)(3) of § 100a.494 contains the time requirement set forth in § 100a.280 of the proposed rule). *Comment.* A commenter asked that final fiscal reports be due 120 days after the expiration of a grant or contract, rather than the 90 days required under § 100a.280(b) of the proposed rule. The commenter stated that other HEW agencies use the 120-day rule, and suggested that consistency within HEW would be useful.

Response. Under 45 CFR 74.111(a)(3) (38 FR 26283). The Department has adopted the 90-day term for final fiscal reports as an across-the-board policy. Therefore, § 100a.494 need not be amended to achieve consistency within the Department. No change in the regulation is necessary.

22. Section 100b.29 *Budget revision and minor deviations.—Comment.* A commenter requested that procedures for budget deviation be left to the State agencies which administer the programs subject to Part 100b.

Response. The regulation has been revised in accordance with the comment.

23. Section 100b.32 *Effective dates of State plans and amendments.—Comment.* Several commenters objected to the proposed rule that State plans may not become effective prior to the date approved by the Commissioner, and no earlier than the date the State plan is received by the Commissioner. The commenters felt that the delays involved would seriously hamper State agencies in administering these programs.

Response. The regulation has been amended to provide that State plans shall be considered to be in effect on the date they are submitted to the Federal Government in substantially approvable form, but no earlier than July 1 of the fiscal year for which they are submitted.

24. Section 100b.58 *Tuition and fees.* (§ 100b.51 in the proposed rule). *Comment.* A commenter felt that the regulation as proposed is ambiguous; that it is not clear whether Federal funds can or cannot be used to pay tuition and fees.

Response. Section 100b.58 is intended to serve two purposes. In a program where cost sharing is required of a recipient, the recipient is prohibited from using tuition or fees which it collects from students for all or part of the non-Federal share of costs of the project. The second purpose of the regulation is to prohibit the use of Federal funds to pay for costs which have already been paid for by tuition or fees paid by students to the recipient. If this rule were not applied, the Federal funds, in effect, could be used for double payment of a particular cost. No change in the regulation has been made.

25. Section 100b.158 *Timeliness of work.—Comment.* A commenter felt that the State agency, rather than the Commissioner, should notify recipients that funds have been awarded to the recipients under the programs subject to Part 100b.

Response. The regulation has been revised in accordance with the commenter's recommendation.

26. Section 100b.215 *Nonexpendable personal property.* (§ 100b.200 in the proposed rule) *Comment.* A commenter objected to the inventory requirements contained in § 100b.215(d) (1) and (2) (§ 100b.200(e) (1) and (2) in the proposed rule), stating that they are too stringent and would require additional manpower. The commenter asked that the "old regulations" be used and that an inventory be required only for items costing $200 or more per unit.

Response. Section 100b.215 applies only to "nonexpendable personal property," which is defined in § 100.1 as tangible personal property costing $300 or more per unit. This means that § 100b.215 is less extensive in coverage than a regulation would be which applies to items costing $200 or more per unit. It should be noted that while the inventory requirements of § 100b.215 do not apply to tangible personal property costing less than $300 per unit, an inventory must be maintained for this property sufficient to enable a recipient to account to the Commissioner under § 100b.216 (§ 100b.201 in the proposed rule), which governs expendable personal property (defined in § 100.1). However, such an inventory need not meet the specific requirements of § 100b.215(d) (1) and (2), as long as it is adequate to satisfy the recipient's duty to account. No change in the regulation has been made.

Comment. A commenter objected to the provisions of the proposed rule (§ 100b.200 (c)(2) and (d)) which would give the Commissioner the authority to order disposition of equipment, on the grounds that this should be the function of the State agency under these programs.

Response. The regulation has been revised in accordance with the commenter's suggestion.

27. Section 100c.3 *Exceptions.—Comment.* A commenter stated that the intent of § 100c.3(b) is not entirely clear.

Response. Section 100c.3(b) is intended to distinguish between the administrative funds which the State agency is granted to administer the Federal program, and program funds which the State agency may use under some Federal programs (Part B of the Education of the Handicapped Act, for example) to operate projects directly. The latter are subject to the limited indirect cost rate set forth in § 100c.2(b)(2). State administrative funds are not subject to § 100c.2(b)(2). No change in the regulation has been made.

28. Appendix A-4 *Allowable costs.—Comment.* A commenter objected to the 8 percent limitation on indirect costs for training programs.

Response. As noted by the commenter, this rule has been a long standing Department policy. To avoid inconsistency within the Department, the Office of Education will retain the rule, but will forward the comment to appropriate Departmental officials for their consideration.

29. Appendix A-9 *Applicability of State and local laws and institutional procedures.—Comment.* A commenter stated that the language in this condition is "meaningless and confusing" to a nongovernmental grantee.

Response. Condition 9 is intended to make it clear that local laws and procedures which are designed for economical spending are not to be overruled by implication from the grant or Federal laws and regulations. No change in the regulation is necessary.

30. Appendix A-12 *Patents.—Comment.* A commenter suggested that where an institutional agreement has been entered into with the Department, paragraphs (e), (f), (g), and (h) should not apply. The commenter also asked for more limiting language under paragraph (f), to require patent agreements only from persons who may reasonably be expected to make inventions.

Response. It is intended that paragraphs (e) through (h), inclusive, apply to a grant whether or not an institutional agreement has been entered into. With respect to patent agreements, it is felt that the slightly broader language in paragraph (f) as proposed will better serve to protect patent rights on behalf of the Federal Government. No change has been made.

31. Appendix A-18 *Labor standards.—Comment.* A commenter asked that the condition be clarified by the insertion of the words "as a direct cost."

Response. The condition has been modified in accordance with the commenter's recommendation.

32. Appendix A-22 *Program income.—Comment.* A commenter objected to condition 22-b as being inconsistent with institutional agreements with the Department.

Response. Condition 22-b has been deleted. Program income will be governed by Subpart M of Part 100a, which is consistent with Department policy set forth in 45 CFR 74 (38 FR 26274).

33. Subchapter A *General.—Comment.* A commenter objected to the application of standards from OMB Circular No. A-102 to recipients other than State and local governments. The commenter felt that some of the standards were designed only for government agencies, and could not be applied across-the-board to other types of recipients.

Response. In preparing Part 74 of Title 45 of the Code of Federal Regulations, the Department, as a matter of policy, has made certain provisions of the OMB Circular not applicable to entities other than State and local governments. In implementing 45 CFR Part 74, the Office of Education will also make these standards inapplicable to recipients other than State and local governments. See for example §§ 100a.105 and 100a.107. In other cases, the Department has determined that HEW agencies may apply the standards to all recipients. The Office of Education feels that uniform standards, where feasible, are in the best interests of good management and economy, and will follow the Department's lead in this regard. Where a regulation in Subchapter A is intended to apply only to State and local governments, the regulation specifically so states.

Comment. A commenter objected to the manner in which the general provisions were presented to the public for comment. The commenter felt that for each section of the regulations, an analysis should be presented which would show how conclusions were reached which resulted in the regulation.

Response. As noted in the preamble to the proposed rule (38 FR 10386), the general provisions derive from two primary sources: (1) pre-existing regulations of the Office of Education, and (2) OMB Circular No. A-102. The prior Office of Education regulations which formed the basis for the general provisions are those which are being revoked by this document. By referring to those sections in the Code of Federal Regulations, Title 45, commenters were able to compare the policies in the general provisious with the previous policies of the Office of Education. The extensive number of comments received by the Office of Education on the regulations would seem to indicate that this method of presentation was adequate to apprise interested parties of matters on which they might wish to comment. The comments received were helpful in formulating the final regulations, as evidenced by the number of changes based on the comments noted above.

C. *Other changes.* 1. Numerous typographical and technical corrections have been made.

2. The revocations of sections in other parts of Title 45 have been brought up to date.

3. In § 100.1, the definition of "recipient" has been revised to include "subgrantees," and definitions of "subgrant" and "subgrantee" have been added.

4. In § 100a.10(a) (29)–(32), four programs have been added to the list of programs subject to Part 100a.

5. Section 100a.26(b) has been revised to provide that the criteria set forth will be applied by the Commissioner in selecting applications for funding.

6. Section 100a.29(a) has been revised to conform to 45 CFR Part 74 (38 FR 26274).

7. In Part 100a, Subparts C, E, F, H, M, O, P, and Q have been added to implement 45 CFR Part 74. Other subparts and sections in Part 100a have been redesignated and added as set forth in the table above.

8. Section 100a.159(d) has been deleted.

9. Section 100a.161 has been revised to provide that a recipient's estate or interest in the site of federally-assisted construction must assure use and possession of the facility for at least 50 years.

10. Section 100a.192 has been added to cross-reference to Executive Order No. 11288, regarding water pollution.

11. Section 100a.215 (as redesignated) has been revised to conform to 45 CFR Part 74.

12. Section 100a.218 has been added to set forth the acknowledgement to be used in federally-assisted publications and presentations.

13. Section 100a.477 (as redesignated) has been revised to conform to 45 CFR Part 74.

14. Sections 100a.278, 100a.279, and 100a.280 have been deleted.

15. Section 100a.495 (as redesignated) has been revised to tie into the Department Grant Appeals Board procedure (45 CFR Part 16).

16. Section 100a.496 has been revised to conform to 45 CFR Part 74.

17. In Part 100b, Subparts E, F, H, N, O, P, and Q have been added to implement 45 CFR Part 74. Other subparts and sections in Part 100b have been redesignated and added as set forth in the table above.

18. Section 100b.161 has been amended similarly to § 100a.161, above.

19. Section 100b.192 has been added comparable to § 100a.192, above.

20. Section 100b.200(d) of the proposed rule (redesignated as § 100b.215) has been deleted.

21. Section 100b.477 (as redesignated) has been revised to conform to 45 CFR Part 74.

22. Sections 100b.278, 100b.279, and 100b.280 have been deleted.

23. Section 100b.484 (as redesignated) has been amended to make it clear that all recipients are subject to Federal audit.

24. Appendix A has been revised to conform the Office of Education grant terms and conditions to the regulations in Part 100a.

25. Appendix E is deleted.

After consideration of all comments, Title 45 of the Code of Federal Regulations is amended as set forth below. (The regulations in Part 100a will govern applications and awards made on and after the effective date set forth below).

Effective date. Pursuant to section 503(d) of the Education Amendments of 1972 (Pub. L. 92-318), these regulations become effective on December 6, 1973.

(Catalog of Federal Domestic Assistance Programs Nos. 13.400–13.524, Office of Education.)

Dated: September 25, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: October 29, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 60—FEDERAL FINANCIAL ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL RADIO AND TELEVISION BROADCAST FACILITIES

§ 60.5 [Revoked]

1. Section 60.5 is revoked.

2. Section 60.12 is amended by revising paragraph (a) and revoking paragraph (b) as follows:

§ 60.12 Processing applications.

(a) With respect to applications accepted for filing pursuant to § 60.8, the Commissioner may at any time establish temporary limitations on the maximum amount of Federal grants which may be approved for projects situated in each of the several States, if in his judgment such action would assist in promoting equitable distribution of such Federal grant throughout the several States.

(b) [Revoked.]

§§ 60.15 and 60.17 [Amended]

§ 60.19 [Revoked]

3. Sections 60.15(a), 60.17 (a), (e), (h), (i), (j), and (k), and 60.19 are revoked.

PART 102—STATE VOCATIONAL EDUCATION PROGRAMS

§§ 102.3 and 102.42 [Amended]

§§ 102.2, 102.44, 102.122–102.131, 102.134, 102.144, 102.146–102.147, 102.154–102.155, 102.158 [Revoked]

5. Sections 102.2, 102.3 (e), (h), (k), (l), (p), and (r), 102.42(b), 102.44, 102.122–102.131, 102.134, 102.144, 102.146, 102.147, 102.154, 102.155, and 102.158 are revoked.

PART 103—RESEARCH AND TRAINING, EXEMPLARY, AND CURRICULUM DEVELOPMENT PROGRAMS IN VOCATIONAL EDUCATION

§§ 103.3, 103.13, 103.24 [Amended]

§§ 103.2, 103.14, 103.16, 103.17, 103.27–103.28, 103.34–103.37, and 103.41–103.61 [Revoked]

6. Sections 103.2, 103.3 (b), (d), and (g), 103.13(a) (2)–(7), 103.14, 103.16, 103.17, 103.24 (a) (4)–(10) and (c), 103.27, 103.28, 103.34–103.37, and 103.41–103.61 are revoked.

PART 107—FEDERAL FINANCIAL ASSISTANCE FOR PLANNING AND EVALUATION

§ 107.1 [Amended]

§§ 107.3–107.9 [Revoked]

7. Sections 107.1 (b), (c), (e), and (g), and 107.3–107.9 are revoked.

PART 111—HEARINGS IN CONNECTION WITH SCHOOL CONSTRUCTION AND FINANCIAL ASSISTANCE IN FEDERALLY IMPACTED AREAS

§ 111.1 [Amended]

8. Section 111.1 (a), (d), and (e) are revoked.

PART 112—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF PUBLIC ELEMENTARY AND SECONDARY AFFECTED BY CERTAIN DISASTERS

§ 112.1 [Amended]

9. Section 112.1 (b) and (h) are revoked.

PART 113—FINANCIAL ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES AFFECTED BY CERTAIN DISASTERS

§ 113.1 [Amended]

10. Section 113.1 (b) and (f) are revoked.

PART 114—FEDERAL ASSISTANCE UNDER PUBLIC LAW 815, 81ST CONGRESS, AS AMENDED, IN CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§ 114.1 [Amended]

11. Section 114.1 (b), and (g), and (v) are revoked.

PART 115—FINANCIAL ASSISTANCE FOR CURRENT EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR FREE PUBLIC EDUCATION OF CERTAIN CHILDREN RESIDING ON FEDERAL PROPERTY

§ 115.3 [Amended]

12. Section 115.3 (b) and (d) are revoked.

PART 116—FEDERAL ASSISTANCE TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

§§ 116.1, 116.21, 116.53 [Amended]

§§ 116.42, 116.46–116.48, and 116.54–116.57 [Revoked]

13. Sections 116.1 (e), (j), (k), (m), (t), (u), (x), (y), and (bb), 116.21(a)–(e), 116.42, 116.46–116.48, and 116.53(a)–(c), (e), 116.54–116.57 are revoked.

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§§ 117.1 and 117.3 [Amended]

§§ 117.13 [Revoked]

14. Sections 117.1 (c)–(e), (g), and (j), 117.3(l), and 117.13 are revoked.

15. Section 117.20 is revised to read as follows:

§ 117.20 Acquisition of instructional materials.

Acquisition (as defined in § 100.1 of this chapter) of school library resources, textbooks, and other printed and published instructional materials may include the necessary costs of ordering, processing, and cataloging such resources, textbooks, and materials. Funds under title II of the act are not available for the rebinding or repair of such resources, textbooks, or materials. (20 U.S.C. 823)

§§ 117.21 and 117.46 [Amended]

§§ 117.26–117.30, 117.36, 117.39, 117.43–117.45 [Revoked]

16. Sections 117.21(b), 117.26–117.30, 117.36, 117.39, 117.43–117.45, and 117.46(c) are revoked.

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE COUNSELING AND TESTING PROGRAMS

§§ 118.1 118.6, 118.18, 118.22 [Amended]

§§ 118.31, 118.33–118.34, 118.41–118.43, 118.45, 118.53 and 118.55–118.58 [Revoked]

17. Sections 118.1 (b), (e), (f), (g), (o), (q), (r), and (x), 118.6(e), 118.18(d), 118.22(f), 118.31, 118.33, 118.34, 118.41–118.43, 118.45, 118.53 and 118.55–118.58 are revoked.

PART 119—FEDERAL FINANCIAL ASSISTANCE FOR STRENGTHENING STATE DEPARTMENTS OF EDUCATION

§ 119.1 [Amended]

§ 119.7 [Revoked]

18. Sections 119.1(c)–(g), (i), (k), and (l), and 119.7 are revoked.

19. The introductory sentence of § 119.8 is revised to read as follows:

§ 119.8 Federal payments.

Federal payments will be made available to the States after:

* * * * *

(20 U.S.C. 1232d.)

§ 119.22 [Amended]

§§ 119.21, 119.23–119.28 and 119.40–119.52 [Revoked]

20. Sections 119.21, 119.22(b), 119.23–119.28, and 119.40–119.52 are revoked.

PART 121—PROGRAMS FOR THE EDUCATION OF HANDICAPPED CHILDREN

§§ 121.1, 121.102, 121.106, 121.127–121.128 [Amended]

§§ 121.3–121.12, 121.56–121.60, 121.80, 121.82–121.84, 121.90, 121.97, 121.110 and 121.131 and 121.133 [Revoked]

21. Sections 121.1 (a), (b–1), (d), (f)–(i), (m), (n), (p)–(r), (t), and (u), 121.3–121.12, 121.56–121.60, 121.80, 121.82–121.84, 121.90, 121.99, 121–102 (d) and (g), 121.106e, 121.110, 121.127 (c) and (d), 121.128(d), and 121.131–121.133 are revoked.

PART 123—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§ 123.1 [Amended]

§§ 123.2–123.3, 123.6, 123.14, 123.21, 123.23–123.29, 123.35–123.38, and 123.44 [Revoked]

22. Sections 123.1 (d), (h), (i), (n), and (p)–(r), 123.2, 123.3, 123.6, 123.14, 123.21, 123.23–123.29, 123.35–123.38, and 123.44 are revoked.

PART 124—FINANCIAL ASSISTANCE FOR DEMONSTRATION PROJECTS FOR REDUCING THE NUMBER OF SCHOOL DROPOUTS

§ 124.1 [Amended]

§§ 124.4–124.7 [Revoked]

23. Sections 124.1 (b), (c), (e), (f), and (i)–(k), and 124.4–124.7 are revoked.

§ 124.8 [Amended]

24. The last sentence in § 124.8 reading, "The application shall also contain an assurance that none of the funds made available under section 807 of the act will be used for religious worship or instruction.", is revoked.

§ 124.15 [Amended]

§§ 124.16, 124.20–124.28 and 124.33–124.34 [Revoked]

25. Sections 124.15(a), (c), and (d), 124.16, 124.20–124.28, 124.33, and 124.34 are revoked.

PART 125—CENTERS AND SERVICES FOR DEAF-BLIND CHILDREN

§ 125.1 [Amended]

26. Section 125.1(c) is revoked.

PART 129—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

§§ 129.1, 129.3, 129.6 [Amended]

§§ 129.9–129.19 [Revoked]

26–1. The first sentence of § 129.3, reading: "Any State or local educational agency desiring to receive a grant under this part shall submit an application for each fiscal year at such time, in such form, containing such information, and in accordance with such procedures as the Commissioner may prescribe.", is revoked.

26–2. Sections 129.1 (b), (e), (f), (h), (l), and (m), 129.6(a), and 129.9–129.19 are revoked.

PART 130—LIBRARY SERVICES, PUBLIC LIBRARY CONSTRUCTION, INTERLIBRARY COOPERATION

§§ 130.3, 130.5, 130.22 [Amended]

§§ 130.2, 130.31–130.41, 130.43–130.44, 130.52–130.53, 130.55 [Revoked]

27. Sections 130.2, 130.3(b), (d), (f), and (g), 130.5(b) (1)–(6) and (8)–(16), 130.22(c), 130.31–130.41, 130.43, 130.44, 130.52, 130.53, and 130.55 are revoked.

PART 131—COLLEGE LIBRARY RESOURCES PROGRAM UNDER TITLE II–A, HIGHER EDUCATION ACT OF 1965, AS AMENDED

28. Section 131.1 is revised to read as follows:

§ 131.1 Applicability.

The regulations in this part apply to grants made by the Commissioner pursuant to his authority under title II–A of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021.)

§ 131.2 [Amended]

§§ 131.6, 131.10, 131.12 and 131.17 [Revoked]

29. Sections 131.2 (e), (f), and (n), 131.6, 131.10, and 131.12–131.17 are revoked.

PART 132—GRANTS FOR TRAINING IN LIBRARIANSHIP

30. Section 132.1 is revised to read as follows:

§ 132.1 Applicability.

The regulations in this part apply to grants by the Commissioner to institutions of higher education and library organizations or agencies to assist them in training persons in librarianship under title II–B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1031.)

§ 132.2 [Amended]

§§ 132.5–132.12, 132.14 and 132.16–132.17 [Revoked]

31. Sections 132.2(b)–(e), 132.5–132.12, 132.14, and 132.16–132.27 are revoked.

PART 141—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS IN PUBLIC SCHOOLS

§ 141.1 [Amended]

§§ 141.8, 141.12–141.18, and 141.21–141.23 [Revoked]

32. Sections 141.1 (e)–(h), and (k), 141.8, 141.11(d)(4), 141.12–141.18, and 141.21–141.23 are revoked.

PART 142—LOANS TO PRIVATE NONPROFIT SCHOOLS FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

§ 142.2 [Amended]

33. Sections 142.2 (c), (e)–(g), (j), (k), (l)–(n), and (p) are revoked.

PART 144—NATIONAL DEFENSE STUDENT LOAN PROGRAM

34. Section 144.2 (d)–(f), (v), (w), and (y) are revoked.

§ 144.2 [Amended]

PART 145—NATIONAL DEFENSE GRADUATE FELLOWSHIP PROGRAM

§ 145.1 [Amended]

35. Section 145.1 (d), (e), and (l) are revoked.

PART 147—PROCEDURES AND CRITERIA FOR RESOLVING QUESTIONS INVOLVING MORAL CHARACTER OR LOYALTY OF APPLICANTS FOR AND HOLDERS OF NDEA FELLOWSHIP

§ 147.2 [Amended]

36. Section 147.2 (e) and (f) are revoked.

PART 150—PRODUCTION AND DISTRIBUTION OF CAPTIONED FILMS FOR THE DEAF

§ 150.1 [Amended]

37. Section 150.1(f) is revoked.

PART 151—FEDERAL FINANCIAL ASSISTANCE FOR RESEARCH AND RESEARCH RELATED ACTIVITIES IN THE FIELD OF EDUCATION AND FOR CONSTRUCTION OF NATIONAL AND REGIONAL RESEARCH FACILITIES

§§ 151.2 and 151.5 [Amended]

§§ 151.4, 151.7–151.9, 151.11, 151.13–151.16, 151.18–151.23, 151.31–151.40, 151.42–151.44, 151.46–151.47 [Revoked]

38. Sections 151.2 (b), (d), (h), (j), (k), and (n), 151.4, 151.5(b), 151.7–151.9, 151.11, 151.13–151.16, 151.18–151.23, 151.31–151.40, 151.42–141.44, 151.46, and 151.47 are revoked.

PART 155—UPWARD BOUND

§§ 155.2, 155.7, 155.9 [Amended]

§§ 155.3, 155.11–155.14 [Revoked]

39. Sections 155.2 (b), (d), and (g), 155.3, 155.7 (c) and (f), 155.9(a), and 155.11–155.14 are revoked.

PART 160—TRAINING PROGRAM UNDER MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

§§ 160.2, 160.10 [Amended]

§§ 160.11–160.14, 160.16–160.17, 160.19–160.22 [Revoked]

40. Sections 160.2 (f), (q), (r), and (u), 160.10 (a), (b), (f), and (g), 160.11–160.14, 160.16, 160.17, and 160.19–160.22 are revoked.

41. In the appendix to part 160, article III, "Termination," is revoked.

PART 166—FINANCIAL ASSISTANCE FOR ADULT EDUCATION PROGRAMS

§§ 166.3, 166.16, 166.21 [Amended]

§§ 166.2, 166.22–166.31, 166.33–166.36, 166.43, 166.44, 166.46, 166.47 [Revoked]

42. Sections 166.2, 166.3 (f)–(h) and (k), 166.16(a) 166.21(a), 166.22–166.31, 166.33–166.36, 166.43, 166.34, 166.46, and 166.47 are revoked.

PART 167—SPECIAL PROJECTS AND TEACHER TRAINING IN ADULT EDUCATION

§§ 167.3, 167.7, 167.11 [Amended]

§§ 167.2, 167.8–167.10, 167.12, 167.13, 167.15, 167.17–167.27 [Revoked]

42–1. Sections 167.2, 167.3 (f)–(h), (k), and (b), 167.7(a), 167.8–167.10, 167.11(a) and (b), 167.12, 167.13, 167.15, and 167.17–167.27 are revoked.

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

§ 170.1 [Amended]

43. Section 170.1(f) and (l) are revoked.

• • • • •

§§ 170.5, 170.6, 170.8, and 170.13 [Amended]

§§ 170.2–170.4 [Revoked]

45. Sections 170.2–170.4, 170.5(b), 170.6(a) (1) and (2), and (b), and 170.13 (a)(4) are revoked.

§ 170.14 [Amended]

46. The first sentence of § 170.14(b), reading "Applications for grants under Title I of the Act shall be submitted on forms supplied by the Commissioner, and shall contain such assurances as are required pursuant to the Act and the regulations in this part.", is revoked.

§ 170.18 [Amended]

§§ 170.19 and 170.45 [Revoked]

47. Sections 170.18 (a) and (c), 170.19, and 170.45 are revoked.

PART 171—FINANCIAL ASSISTANCE FOR ACQUISITION OF EQUIPMENT TO IMPROVE UNDERGRADUATE INSTRUCTION IN INSTITUTIONS OF HIGHER EDUCATION

§ 171.1 [Amended]

48. Section 171.1 (h), (j), (p), and (q) are revoked.

§ 171.4 [Amended]

49. The first sentence of § 171.4(b), reading "Applications for grants under this part shall be submitted on forms supplied by the Commissioner, and shall contain such assurances as are required pursuant to the Act and the regulations in this part.", is revoked.

§ 171.7 [Amended]

§§ 171.8 and 171.10 and 171.12 [Revoked]

50. Sections 171.7(b), 171.8, and 171.10–171.12 are revoked.

PART 173—FINANCIAL ASSISTANCE FOR COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

§ 173.1 [Amended]

51. Section 173.1 (b), (d), (e), (g), and (i) are revoked.

52. Section 173.14 is revised to read as follows:

§ 173.14 Fiscal procedures.

The State plan shall contain the procedures required by section 105(a)(5) of the act.

(20 U.S.C. 1005(a)(5).)

§§ 173.16, 173.23–173.33, and 173.37 [Revoked]

53. Sections 173.16, 173.23–173.30, 173.31–173.33, and 173.37 are revoked.

PART 175—COLLEGE WORK-STUDY PROGRAM

§§ 175.2, 175.16 [Amended]

§§ 175.15 and 175.17 [Revoked]

54. Sections 175.2 (d), (h), and (s), 175.15, 175.16 (b) and (c), and 175.17 are revoked.

PART 177—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

§ 177.1 [Amended]

55. Section 177.1 (d) and (l) are revoked.

PART 178—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS AND DIRECT FEDERAL LOANS TO VOCATIONAL STUDENTS

§ 178.1 [Amended]

56. Section 178.1 (d) and (i) are revoked.

PART 180—DESEGREGATION OF PUBLIC EDUCATION

§ 180.02 [Amended]

§ 180.03–180.06 [Revoked]

57. Sections 180.02 (a), (h), and (k), and 180.03–180.06 are revoked.

PART 181—EMERGENCY SCHOOL ASSISTANCE PROGRAM

§ 181.1 [Amended]

§§ 181.13–181.14, 181.16 [Revoked]

58. Sections 181.1 (a), (e), and (h), 181.13, 181.14, and 181.16 are revoked.

Appendix A [Revoked]

59. Appendix A to part 181 is revoked.

PART 185—EMERGENCY SCHOOL AID

§§ 185.02 [Amended]

59–1. Section 185.02 (b), (c), (h), (l), and (m) is revoked.

59–2. Section 185.03 is revised to read as follows:

§ 185.03 General provisions.

Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters): *Provided, however,* That for the purposes of this part, wherever the term "Commissioner" is used in Subchapter A of this chapter, it shall be read to mean "Assistant Secretary."

(20 U.S.C. 1601 et seq.)

Appendix A [Revoked]

59–3. Appendix A to Part 185 is revoked.

PART 186—INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

§ 186.2 [Amended]

§ 186.31–186.34 [Revoked]

59–4. In § 186.2, the definitions of "Commissioner," "Elementary or Secondary School," and "Equipment" are revoked.

59–5. Subpart D of Part 186 (§§ 186.31–186.34) is revoked.

PART 187—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

§ 187.2 [Amended]

59–6. In § 187.2, the definitions of "Elementary school", "Equipment", and "Secondary school" are revoked.

59–7. A new § 187.3 is added to read as follows:

§ 187.3 General provisions.

Assistance under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 887c.)

59–8. Section 187.21 is amended by revoking paragraphs (e)–(j) and by revising the first sentence to read as follows:

§ 181.21 Criteria for consideration of applications.

In considering whether to approve applications and in determining the amount of the award under approved applications, the Commissioner will take into account the following general criteria (in addition to the criteria set forth in § 100a.26(b) of this chapter):

* * * * *

(e)–(j) [Revoked]

§§ 187.31–187.34 [Revoked]

59–9. Sections 187.31–187.34 are revoked.

PART 188—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

59–10. Section 188.3 is added to read as follows:

§ 188.3 General provisions.

Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative property management, and other matters).

(20 U.S.C. 1211a.)

59–11. Section 188.15 is amended by revoking paragraphs (c)–(f) and revising the first sentence to read as follows:

§ 188.15 General criteria for consideration of applications.

In considering whether to approve applications, and in determining the amount of the award under approved applications, the Commissioner will take into account the following general criteria (in addition to the criteria set forth in § 100a.26(b) of this chapter):

* * * * *

(c)–(f) [Revoked]

§§ 188.21–188.24 [Revoked]

59–12. Sections 188.21–188.24 are revoked.

60. Subtitle B, chapter I, is amended by adding a new subchapter A, reading as follows; and by designating the remainder of chapter I as subchapter B—program regulations.

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS FOR OFFICE OF EDUCATION PROGRAMS

Part
100 General.
100a Direct project grant and contract programs.
100b State-administered programs.
100c Indirect costs under certain programs.
Appendix A—General grant terms and conditions—U.S. Office of Education.
Appendix B—Cost principles for State and local governments.
Appendix C—Cost principles for educational institutions.
Appendix D—Cost principles for nonprofit institutions.
Appendix E—Procurement standards.

PART 100—GENERAL

§ 100.1 Definitions.

As used in this chapter (except as otherwise defined by an applicable statute or regulation):

"Acquisition" means assumption of ownership (including the receipt of gifts) and necessary delivery, and includes purchase, lease, or lease-purchase.

"Applicant" means an eligible party seeking Federal financial assistance. The term includes an offeror for a contract, as well as an applicant for a grant.

"Application" means applications for grants and offers from eligible parties to enter into contracts with the Federal Government.

"Budget period" means the interval of time into which an approved activity is divided for budgetary purposes.

"Commissioner" means the U.S. Commissioner of Education.

"Department" means the U.S. Department of Health, Education, and Welfare.

"Elementary school" means a day or residential school which provides elementary education, as determined under State law, and "Elementary school level" means the educational level at which elementary education is provided, as determined under State law.

"Equipment" includes machinery and includes all other items of tangible personal property necessary for the functioning of a particular facility as a facility for the provision of educational and related services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include "supplies" (as defined in this section).

"Expendable personal property" means all tangible personal property other than nonexpendable personal property (as defined in this section).

"Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

"GEPA" means the General Education Provisions Act, title IV of Public Law 90–247, as amended.

"Grant period" means the period during which costs may be charged against a grant.

"Materials" means those items which with reasonable care and use may be expected to last for more than 1 year and are suitable for and are to be used in providing instruction under approved activities receiving Federal assistance. The term includes such items as audio and video tapes; discs; slides and transparencies; films and filmstrips; books; models and mockups; pamphlets; periodicals for indefinite retention in reference collections, and other printed and published materials such as maps, globes, and charts. The term does not include such items as textbooks or chemicals, glassware and other supplies which are consumed in use.

"Minor remodeling" means minor alterations in a previously completed building which are needed to make effective use of equipment or personnel. The term may also include the extension of utility lines, such as water and electricity, from points beyond the confines of the spaces in which the minor remodeling is undertaken but within the confines of such previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repair.

"Nonexpendable personal property" means tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of $300 or more per unit.

"Nonprofit," as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Personal property" means property of any kind, tangible or intangible, except real property.

"Preschool" means the educational level from a child's birth to the time at which elementary education is provided as determined under State law.

"Private" means not under public supervision or control.

"Program" means an overall plan with respect to Federal funds made available during a fiscal year, which plan is intended to be put into effect by the recipient through one or more projects. The term does not include a Federal program of assistance.

"Project" means an activity, or set of activities designed to meet the purposes of the applicable Federal program.

"Project period" means the total period of time for which a project is approved for support with Federal funds.

"Public agency" means a legally constituted organization of government under public administrative control and direction, but does not include agencies of the Federal Government.

"Recipient" means the agency, institution, or organization receiving Federal financial assistance including subgrantees (as defined in this section) but does not include contractors who receive funds from the recipient pursuant to a grant or contract awarded by the Commissioner.

"Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12, and "Secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided, as determined under State law.

"Secretary" means the Secretary of Health, Education, and Welfare.

"Service function", with respect to a local educational agency, means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

As used in this subchapter the term "State and local governments" shall be determined according to the following definitions:

(a) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(b) "Local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

"Subgrant" means an award of money paid by a recipient as financial assistance pursuant to a grant awarded by the Commissioner.

"Subgrantee" means the agency, institution, or organization to which a subgrant is made and which is accountable to the recipient for the use of the funds provided.

"Supplies" means those nonequipment items of tangible personal property which are consumed in use or which may not reasonably be expected to last longer than 1 year.

"Works of art" means those items, which may be in the nature of fixtures, that are incorporated in facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellence of architecture and design.

(20 U.S.C. 1221c(b)(1).)

(Sec. 403(b)(1), Public Law 90–247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.)

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

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AUTHORITY: Sec. 403(b)(1), Pub. L. 90–247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

Subpart A—General

§ 100a.10 Scope.

(a) *Programs.* Except to the extent inconsistent with an applicable statute or regulation, the provisions contained in this part apply to all Federal programs of assistance authorized under the following authorities:

(1) Special programs and projects under section 306 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 844b);

(2) Program planning and evaluation under section 411 of the General Education Provisions Act (20 U.S.C. 1222);

(3) Strengthening State and local educational agencies under title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 861);

(4) Bilingual education programs under title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880b);

(5) Dropout prevention projects under section 807 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 887);

(6) Demonstration projects to improve school nutrition and health services for children from low-income families under section 808 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 887a);

(7) Centers and services to meet special needs of the handicapped, training personnel for the education of the handicapped, research in the education of the handicapped, instructional media for the handicapped, and special programs for children with specific learning disabilities under parts C, D, E, F, and G, respectively, of the Education of the Handicapped Act (20 U.S.C. 1421, 1431, 1441, 1451, and 1461);

(8) Special experimental demonstration projects and teacher training under section 309 of the Adult Education Act (20 U.S.C. 1208);

(9) Desegregation of public education under title IV of the Civil Rights of 1964 (42 U.S.C. 2000c–2000c–9);

(10) Dissemination, surveys, exemplary projects, and studies under section 2 of the Cooperative Research Act (20 U.S.C. 331a);

(11) Research and training, exemplary programs and projects, demonstration schools, and grants to reduce borrowing costs for schools and dormitories; and curriculum development in vocational and technical education under sections 131(a), 142(c), 151, and 153; and part I of the Vocational Education Act of 1963 (20 U.S.C. 1281(a), 1302(d), 1321, 1323, 1391);

(12) The follow-through program under section 222(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809 (a)(2));

(13) Emergency school aid under title VII of the Education Amendments of 1972 (20 U.S.C. 1601);

(14) Grants for noncommercial educational broadcasting facilities under part IV of title III of the Communications Act of 1934 (47 U.S.C. 390);

(15) On-the-job training, redevelopment areas, correctional institutions, work experience and training programs, and training and technical assistance under sections 204(c), 241, 251, and 309, respectively, of the Manpower Development and Training Act (42 U.S.C. 2584 (c), 2610a, 2610b, 2610c, and 2619);

(16) Language development under title VI of the National Defense Education Act of 1958 (20 U.S.C. 511);

(17) Programs under the Environmental Education Act (20 U.S.C. 1531);

(18) Programs under the Drug Abuse Education Act of 1970 (21 U.S.C. 1001);

(19) Special programs and projects relating to national and regional problems under section 106 of title I of the Higher Education Act of 1965 (20 U.S.C. 1005a);

(20) College library resources and library training and research under parts A and B, respectively, of title II of the Higher Education Act of 1965 (20 U.S.C. 1021, 1031);

(21) Strengthening developing institutions under title III of the Higher Education Act of 1965 (20 U.S.C. 1051);

(22) Supplemental educational opportunity grants under part A–2 of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b);

(23) Special programs for students from disadvantaged backgrounds under part A–4 of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070);

(24) Work-study programs under title IV–C of the Higher Education Act of 1965 (42 U.S.C. 2751);

(25) Cooperative education programs under title IV–D of the Higher Education Act of 1965 (20 U.S.C. 1087a);

(26) Attracting qualified persons to the field of education, the teacher corps, fellowships for teachers and related educational personnel, improving training opportunities for personnel serving in programs of education other than higher education, training programs for higher education personnel, and training and development programs for vocational education personnel under section 504 and parts B–1, C, D, E, and F, respectively, of the Education Professions Development Act (20 U.S.C. 1091c, 1101, 1111, 1119, 1119b, 1119c);

(27) Financial assistance for the improvement of undergraduate instruction under title VI of the Higher Education Act of 1965 (20 U.S.C. 1121);

(28) Construction of academic facilities under title VII of the Higher Education Act of 1965, except loans for construction of academic facilities; under part C thereof (20 U.S.C. 1132a);

(29) Education programs in foreign language and area studies under section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(6));

(30) Programs under the Indian Elementary and Secondary School Assistance Act, under title III of Pub. L. 81–874 (as added by Part A of the Indian Education Act, Pub. L. 92–318, title IV) (20 U.S.C. 241aa);

(31) Financial assistance for the improvement of educational opportunities for Indian children under section 810 of the Elementary and Secondary Education Act (as added by Part B of the Indian Education Act, Pub. L. 92–318, title IV) (20 U.S.C. 887c); and

(32) Financial assistance for the improvement of educational opportunities for adult Indians under section 314 of the Adult Education Act (as added by Part C of the Indian Education Act, Pub. L. 92–3318, title IV) (20 U.S.C. 1211a).

(b) *Procurement contracts.* This part shall not apply to procurement contracts awarded by the Office of Education in accordance with title 41 of the Code of Federal Regulations.

(Comp. Gen. Op. No. B-146285 (September 15, 1971).)

Subpart B—Applications

§ 100a.15 Applications for grants or contracts.

Any applicant eligible for a grant or contract may submit, on or before such cutoff date or dates as the Commissioner may announce in the FEDERAL REGISTER for each fiscal year, an application containing such assurances and pertinent information, and in accordance with such forms, and instructions, as the Commissioner may prescribe. Such applications shall be executed by the applicant or an official or representative of the applicant duly authorized to make such application.

(20 U.S.C. 1221c(b)(1); OMB Circular A–102.)

§ 100a.16 Project description.

The application shall describe: (a) The nature, duration, purpose, and plan of the proposed project; (b) the qualifications of the project director and of the professional personnel who will be involved in the project; (c) the facilities and resources that will be made available; (d) a justification of the amount of Federal funds requested; (e) the portion of the cost of the project proposed to be contributed by the applicant; (f) a proposed budget; and (g) such other information and assurances as the Commissioner may require.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A–102.)

§ 100a.17 Administrative information.

The application shall contain the name of the official authorized to submit the application and the name of the individual or official who will be responsible for carrying out the project. Unless otherwise indicated in the application, the former individual or official will be deemed to be the individual or official to whom communications shall be directed, the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds, and the individual or official who shall have ultimate responsibility for the accounting of such Federal funds.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A–102.)

§ 100a.18 Designation and certification of agency to administer the project.

(a) Each project application and amendment thereto shall give the official name of the applicant, which shall be the agency responsible for carrying out the project.

(b) Each project application and amendment shall include an assurance by the applicant to the effect that the application or amendment has been adopted by the applicant.

(OMB Circular No. A–102.)

§ 100a.19 Cooperative arrangements.

(a) Eligible parties may enter into cooperative arrangements with other eligible parties, including those in another State, to apply for assistance.

(b) A joint application made by two or more applicants under a particular Federal program may have separate budgets corresponding to the programs, services, and activities performed by each of the joint applicants, or may have a combined budget. If joint applications present separate budgets, the Commissioner may make separate awards, or may award separate amounts for each of the joint applicants.

(c) In the case of each cooperative arrangement authorized under paragraph (a) of this section and receiving assistance, except where the Commissioner makes separate awards under paragraph (b) of this section, all such applicants (1) shall be deemed to be joint legal recipients of the grant or contract and (2) shall be jointly and severally legally responsible for administering the project assisted under such grant or contract.

(20 U.S.C. 1221c(b)(1), 1232c(b)(1).)

§ 100a.20 Effective date of approved project.

Federal financial participation is available only with respect to obligations incurred subsequent to the effective date of an approved project. The effective date of the project will be set forth in the notification of grant award or contract document.

(20 U.S.C. 1221c(b)(1); OMB Circulars A–21, A–87.)

§ 100a.26 Review of applications.

(a) The Commissioner, prior to disposition of applications for grants or contracts, shall have discretion to obtain the review of a panel of experts (except where review by such a panel is required by statute). Any such review will be in addition to the review of an application by the Commissioner in accordance with such procedures as he may establish.

(b) Review by the Commissioner and by the panel of experts will take into account the following factors (in addition to such other criteria as may be prescribed by statute or regulation):

(1) The need for the proposed activity in the area served or to be served by the applicant;

(2) Relevance to priority areas of concern as reflected in provisions contained in the applicable Federal statutes and regulations;

(3) Adequacy of qualifications and experience of personnel designated to carry out the proposed project;

(4) Adequacy of facilities and other resources;

(5) Reasonableness of estimated cost in relation to anticipated results;

(6) Expected potential for utilizing the results of the proposed project in other projects or programs for similar educational purposes;

(7) Sufficiency of size, scope, and duration of the project so as to secure productive results; and

(8) Soundness of the proposed plan of operation, including consideration of the extent to which:

(i) The objectives of the proposed project are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(ii) Provision is made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished;

(iii) Where appropriate, provision is made for satisfactory inservice training connected with project services; and

(iv) Provision is made for disseminating the results of the project and for making materials, techniques, and other outputs resulting therefrom available to the general public and specifically to those concerned with the area of education with which the project is itself concerned.

(20 U.S.C. 1221c(b)(1).)

§ 100a.27 Disposition of applications.

(a) On the basis of the review of an application pursuant to § 100a.26, the

Commissioner will either (1) select the application for funding in whole or in part, for such amount of funds and subject to such conditions as he may deem necessary or desirable for the completion of the approved project, (2) not select the application for funding, or (3) defer action on the application for such reasons as lack of funds or a need for further review.

(b) An application which is deferred or not selected for funding is not precluded from reconsideration or resubmission.

(c) The Commissioner will notify the applicant in writing of the disposition of its application. A notification of grant award or contract document will be issued to notify the applicant of a project application selected for funding.

(d) If the Commissioner awards a grant, the grant shall be subject to, and the grant award document will incorporate, the grant terms and conditions set forth in appendix A to this subchapter, pursuant to § 100a.290. If the Commissioner awards a contract, the contract award document shall include whatever provisions are required by Federal law or regulations, including the regulations of the applicable Federal program.

(20 U.S.C. 1221c(b) (1).)

§ 100a.28 Amendments.

The grant or contract must be appropriately amended prior to any material change in the administration of an approved project, or in organization, policies, or operations affecting an approved project. Substantive amendments will be subject to approval in the same manner as original applications. Project amendments may be initiated by the Commissioner if changes are made in Federal appropriations or laws governing such projects. If such amendment constitutes a partial termination of the award, the procedures contained in § 100a.495 shall apply.

(20 U.S.C. 1221c(b) (1); 1232c.)

§ 100a.29 Budget revisions and minor deviations.

(a) *State and local governments.*—(1) This paragraph applies only to recipients which are State and local governments (as defined in § 100.1 of this subchapter).

(OMB Circular No. A-102, attachment K.)

(2) As used in this paragraph:

(i) "Direct cost object class budget categories" include only the following:

(*a*) Personnel;
(*b*) Fringe benefits;
(*c*) Travel;
(*d*) Equipment;
(*e*) Supplies;
(*f*) Contractual;
(*g*) Construction; and
(*h*) Other.

(ii) "Construction" means solely or primarily for construction.

(iii) "Nonconstruction" means not solely or primarily for construction.

(OMB Circular No. A-102, exhibit M-3, 5.)

(3) For nonconstruction grants and contracts, State and local government recipients shall request prior approval promptly from the Commissioner for budget revisions whenever:

(i) The revision results from changes in the scope or the objectives of the project;

(ii) The revision indicates the need for additional Federal funding;

(iii) The budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or 5 percent of the budget, whichever is greater. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant or contract, except that no transfer is permissible which could cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(iv) The budget is $100,000 or less, and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed 5 percent of the budget. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant or contract, except that no transfer is permissible which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(v) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs; or

(vi) The revisions pertain to the addition of items requiring prior approval in accordance with the provisions of appendix B of this subchapter.

(OMB Circular No. A-102, attachment K, 1-2.)

(4) Budget revisions for nonconstruction grants or contracts, other than those revisions set forth in paragraph (a)(3) of this section, do not require approval by the Commissioner. Budget revisions which do not require such approval include (i) the use of recipient funds in furtherance of project objectives over and above the recipient minimum share (if any) included in the approved budget and (ii) the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(OMB Circular No. A-102, attachment K, 2.)

(5) For construction grants and contracts, State and local government recipients shall request prior approval promptly from the Commissioner for budget revisions whenever;

(i) The revision results from changes in the scope or objective of the project; or

(ii) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(OMB Circular No. A-102, attachment K, 2.)

(6)(i) For both construction and nonconstruction grants and contracts, State and local government recipients shall notify the Commissioner promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by more than $5,000 or 5 percent of the Federal grant or contract, whichever is greater.

(ii) The notification required in paragraph (a)(6)(i) of this section will not be required when applications for additional funding are submitted for continuing grants and contracts and those applications include the recipient's estimate of what the unobligated balance of federally-authorized funds will be at the end of the current period.

(OMB Circular No. A-102, attachment K, 2.)

(7) When requesting approval for budget revisions, recipients shall use the budget forms which were used in the application. However, recipients may request by letter the approvals required by paragraph (a)(3)(vi) of this section.

(8) Within 30 days from the date of receipt of the request for budget revisions, the Commissioner will review the request and notify the recipient as to whether or not the budget revisions have been approved. If the revision is still under consideration at the end of that 30-day period, the Commissioner will inform the recipient in writing as to when the recipient may expect the Commissioner's decision.

(OMB Circular No. A-102, attachment K, 3.)

(b) *Recipients other than State and local governments.*—Minor deviations from the project of a recipient other than a State or local government (as defined in § 100.1 of this subchapter) are permitted without the necessity for an approved amendment or revision where (1) they do not result in expenditures in excess of the total amount granted, (2) there is not any material change in the content or the administration of the approved project, and (c) expenditures are otherwise made in accordance with, and for kinds of expenditures authorized in, the approved application.

(20 U.S.C. 1221c(b) (1).)

§ 100a.30 Service contracts.

(a) Each project application shall provide that the activities and services for which Federal financial assistance is sought will be administered by, or under the supervision of, the applicant.

(b) The applicant shall not transfer to others responsibility in whole or in part for the use of Federal funds or for the conduct of project activities, but may enter into contracts or arrangements with others for carrying out a portion of any such activities pursuant to Subpart I of this part.

(c) In applying for Federal assistance, the applicant shall indicate in the application any intention it may have of entering into contracts or other arrangements with individuals or organizations to conduct any portion of any activity proposed in the application. The applicant shall not enter into any such contract or arrangement unless the intention to do so is included in the approved application or an approved amendment or revision thereto.

(20 U.S.C. 1221c(b) (1), 1232c(b) (1).)

§ 100a.31 Preapplications.

Where he deems it necessary or desirable for the efficient administration of a Federal program, the Commissioner may require any applicant for assistance under such program to submit a preapplication for review prior to the acceptance of an application submitted under § 100a.15.

(20 U.S.C. 1221c(b)(1).)

Subpart C—Application Forms for State and Local Governments

§ 100a.40 Authorized forms and instructions.

(a) Only those forms specified in §§ 100a.41 through 100a.45, inclusive, and such supplementary or other forms as may from time to time be authorized by the Commissioner may be used by State and local governments in applying for Federal assistance.

(b) All applicable standard instructions for use in connection with the forms specified in §§ 100a.41 through 100a.45, inclusive, shall be followed.

(c) State and local governments shall submit the number of copies of their application as prescribed by the Commissioner.

(d) Except as provided by § 100a.29 (a)(7), all requests by these recipients for changes, continuations, and supplements to approved applications shall be submitted on the same form as the original application. For those purposes, only the affected pages of the forms should be submitted.

(OMB Circular No. A-102, Attachment M.)

§ 100a.41 Preapplication for Federal assistance.

(a) The preapplication for Federal assistance form prescribed by Attachment M of OMB Circular No. A-102, will be used to:

(1) Establish communication between State and local government applicants and the Office of Education;

(2) Determine these applicants' eligibility;

(3) Determine how well the project can compete with similar applications from others; and

(4) Eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application.

(b) Preapplications shall be mandatory for all construction, land acquisition, or land development projects for which the need for Federal funding exceeds $100,000.

(c) Any State or local government applicant shall have the right to submit a preapplication even when not required by the Commissioner.

(OMB Circular No. A-102, Attachment M.)

§ 100a.42 Notice of preapplication review action.

The Notice of Preapplication Review Action form prescribed by Attachment M of OMB Circular No. A-102 will be used by the Commissioner to inform State and local government applicants of the results of the review of the preapplications submitted by them. The Commissioner will send a notice to the applicant within 45 days of the receipt of the preapplication form. When the review cannot be made within 45 days, the applicant will be informed by letter as to when the review will be completed.

(OMB Circular No. A-102, Attachment M.)

§ 100a.43 Application for Federal assistance (nonconstruction projects).

The application for Federal Assistance (Nonconstruction Programs) form prescribed by Attachment M of OMB Circular No. A-102 shall be used by State and local governments to apply for Federal assistance, except where the forms specified in §§ 100a.44 and 100a.45 are to be used.

(OMB Circular No. A-102, Attachment M.)

§ 100a.44 Application for Federal assistance (for construction projects).

The Application for Federal Assistance (for Construction Programs) form prescribed by Attachment M of OMB Circular No. A-102 shall be used by State and local governments to apply for any award whose purpose is solely or primarily construction, land acquisition, or land development.

(OMB Circular No. A-102, Attachment M.)

§ 100a.45 Application for Federal assistance (short form).

The Application for Federal Assistance (Short Form) form subscribed by Attachment M of OMB Circular No. A-102 shall be used to apply for any single-purpose, one-time award of less than $10,000 not requiring clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms.

(OMB Circular No. A-102, Attachment M.)

Subpart D—Federal Financial Participation

§ 100a.50 Amount of award.

Federal assistance may be provided to meet all or part of the allowable costs of projects which meet the requirements contained in the applicable Federal statutes and regulations.

(20 U.S.C. 1221c(b)(1).)

§ 100a.51 Limitations on costs.

The amount of the award shall be set forth in the grant award or contract document. The total cost to the Federal Government will not exceed the amount set forth in the grant award or contract document. The Federal Government shall not be obligated to reimburse the recipient for costs incurred in excess of such amount unless and until the Commissioner has notified the recipient in writing that such amount has been increased and has specified such increased amount in a revised grant award or contract document pursuant to § 100a.28. Such revised amount shall thereupon constitute the revised maximum total cost to the Federal Government of the performance of the grant or contract.

(31 U.S.C. 200.)

§ 100a.52 Federal obligation.

The issuance of a grant award or contract document will be regarded as an obligation of the Federal Government in the amount of the award.

(31 U.S.C. 200.)

§ 100a.53 Payments.

(a) *Payment methods and adjustments.*—Payments pursuant to grants, contracts, or other arrangements may be made in installments, and in advance or by way of reimbursement, pursuant to Subpart E of this part, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(b) *Violations.*—A payment under any such grant, contract, or other arrangement for expenditures which fail to meet the requirements of any of the provisions of applicable Federal statutes, regulations, or the approved project application (including any terms and conditions applicable thereto), may be taken into account in the determination of any such overpayments and any adjustments relating thereto.

(c) *Adjustment of records.*—Each recipient, in its maintenance of project expenditure accounts, records, and reports shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, resulting from Federal or State administrative reviews and audits or otherwise. Such adjustments shall be set forth in any financial reports required to be filed with the Commissioner.

(20 U.S.C. 1232c(a)(1), 1232d.)

§ 100a.54 Duration of project.

(a) The amount of the award shall remain available for obligation by the recipient during the period specified in the grant award or contract document or until otherwise suspended or terminated. Such period may be extended by revision of the grant or contract without additional funds pursuant to paragraph (b) of this section where otherwise permitted by law.

(b) When it is determined that special or unusual circumstances will delay the completion of the project beyond the period for obligation, the recipient must in writing request the Commissioner to extend such period and shall indicate the reasons therefor.

(20 U.S.C. 1221(c)(b)(1), 1232c(b)(3).)

§ 100a.55 Obligation by recipients.

Obligations will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities, shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively.

(20 U.S.C. 1232c(b)(2); 31 U.S.C. 200.)

Subpart E—Grant Payment Requirements

§ 100a.60 Scope of subpart.

This subpart sets forth the methods of making grant payments to recipients. These methods will minimize the time elapsing between the disbursement by a recipient and the transfer of funds from the United States Treasury to the recipient, whether such disbursement occurs prior to or subsequent to the transfer of funds.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100a.61 Definitions.

As used in this subpart:

"Advance by Treasury check" is a payment made by a Treasury check to a recipient upon its request or through the use of predetermined payment schedules before payments are made by the recipient.

"Letter of credit" is an instrument certified by an authorized official of the Federal Government which authorizes a recipient to draw funds when needed from the Treasury, through a Federal Reserve Bank and the recipient's commercial bank, in accordance with the provisions of Treasury Circular No. 1075.

"Percentage of completion method" refers to a system under which payments are made to the recipient for construction according to a schedule which relates the amount and timing of each payment primarily or solely to the actual percentage of completion of the construction work under the grant or contract rather than to the recipient's actual rate of disbursements.

"Reimbursement by Treasury check" is a payment made to a recipient with a Treasury check upon request for reimbursement from the recipient.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100a.62 Payment methods for nonconstruction projects.

(a) Letters of credit will be used to pay recipients when all of the following conditions exist:

(1) there is or will be a continuing relationship between the recipient and the responsible Department finance office for at least a twelve-month period and the total amount of advances to be received from the finance office is $250,000 or more, as prescribed by Treasury Circular No. 1075;

(2) the recipient has established, or demonstrated to the Commissioner the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the recipient; and

(3) the recipient's financial management system meets the standards for fund control and accountability prescribed in Subpart P of this part.

(b) Advances by Treasury check will be used, in accordance with the provisions of Treasury Circular No. 1075, when the recipient meets all of the requirements specified in paragraph (a) of this section except those in paragraph (a)(1) of this section.

(c) Reimbursement by Treasury check will be the preferred (although not mandatory) method when the recipient does not meet the requirements specified in either or both of paragraphs (a)(2) and (a)(3) of this section. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program.

(d) Recipients will be authorized to submit no less often than monthly their requests for advances or reimbursements when letters of credit or predetermined automatic Treasury check advances are not used.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100a.63 Payment methods for construction projects.

(a) The percentage of completion method will not be used to pay for construction.

(b) Reimbursement by Treasury check shall be the preferred method when the recipient does not meet the requirements specified in § 100a.62(a) (2) and (3), and may be used for any other construction grant or contract except where the Commissioner has entered into an agreement with a recipient to use a letter of credit for all Federal assistance, including assistance for construction.

(c) When the reimbursement by Treasury check method is used, recipients will be authorized to submit no less often than monthly their requests for reimbursement.

(d) When the reimbursement by Treasury check method is not used, § 100a.62 (a) and (b) shall be applicable to the construction grant or contract. Implementing procedures under § 100a.62 (a) and (b) will be insofar as possible the same for construction grants and contracts as for nonconstruction grants and contracts awarded to the same recipient.

(20 U.S.C. 1243d; OMS Circular No. A-102, Attachment J.)

§ 100a.64 Withholding of payments.

Unless otherwise required by law, payments for proper charges, incurred by recipients will not be withheld unless the grant or contract is suspended pursuant to § 100a.495(c), or the recipient is indebted to the United States and collection of the indebtedness will not impair the accomplishment of the objectives of any grant or contract program sponsored by the United States. When a grant or contract is suspended, payment adjustments will be made in accordance with § 100a.495. When an indebtedness is to be collected, the Commissioner may, upon reasonable notice to the recipient, withhold from the recipient the right to receive payments under the grant or contract or require appropriate accounting adjustments to recorded cash balances for which the recipient is accountable to the Federal Government, in order to liquidate the indebtedness.

(20 U.S.C. 1243d; OMS Circular No. A-102, Attachment J.)

§ 100a.65 Requesting advances or reimbursements.

Subpart P of this part sets forth the procedures and forms for requesting advances or reimbursements.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

Subpart F—Cash Depositories

§ 100a.70 Physical segregation and eligibility.

Except as provided in § 100a.71:

(a) Physical segregation of cash depositories for Federal funds which are provided to a recipient is not required; and

(b) There will be no eligibility requirements for cash depositories in which Federal funds are deposited by recipients.

(OMB Circular No. A-102, Attachment A.)

§ 100a.71 Checks-paid basis letter of credit.

A separate bank account shall be used when payments under letter of credit are made on a "checks-paid" basis in accordance with agreements entered into by a recipient, the Federal Government, and the banking institutions involved. A checks-paid basis letter of credit is one under which funds are not drawn from the Treasury until the recipient's checks have been presented to its bank for payment.

(OMB Circular No. A-102, Attachment A.)

§ 100a.72 Minority-owned banks.

Consistent with the national goal of expanding opportunities for minority business enterprises, recipients are encouraged to use minority-owned banks.

(OMB Circular No. A-102, Attachment A.)

Subpart G—Cost Principles

§ 100a.80 Scope of subpart.

This subpart establishes the principles to be used (except to the extent inconsistent with an applicable Federal statute or regulation) in determining allowability of costs under grants and contracts awarded by the Commissioner and under cost-type contracts awarded by the recipient.

(20 U.S.C. 1221c(b)(1); OMB Circular Nos. A-21, A-87.)

§ 100a.81 State and local governments.

The principles to be used in determining the allowable costs of activities conducted or administered by State and local governments are set forth in Appendix B to this subchapter.

(OMB Circular No. A-87.)

§ 100a.82 Institutions of higher education.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by institutions of higher education are set forth in Part I of Appendix C to this subchapter.

(b) *Training and other educational services.* The principles for determining the allowable costs of training and other educational services provided by institutions of higher education are set forth in Part II of Appendix C to this subchapter.

(c) *Other activities.* Appendix C to this subchapter shall be used as a guide for determining the allowable costs of other activities conducted by institutions of higher education.

(OMB Circular No. A-21.)

§ 100a.83 Nonprofit organizations.

(a) *Nonconstruction.* The principles for determining the allowable costs of nonconstruction activities conducted by nonprofit organizations other than institutions of higher education, hospitals, States, and local governments are set forth in Appendix D to this subchapter.

(b) *Construction.* Appendix D to this subchapter shall be used as a guide for determining the allowable costs of construction by nonprofit organizations (other than institutions of higher education, hospitals, States and local governments).

(20 U.S.C. 1221c(b)(1).)

§ 100a.84 Cost-type contracts and subcontracts.

(a) It should be noted that the cost principles applicable to a cost-type contractor under a grant or contract will not necessarily be the same as those applicable to the recipient. For example, where a State government awards a cost-type contract to an institution of higher education, Appendix C to this subchapter would apply to the costs incurred by the institution of higher education, even though Appendix B to this subchapter would apply to the costs incurred by the State.

(b) The principles to be used in determining the allowable costs of work performed by commercial organizations under cost-type contracts awarded to them are set forth in 41 CFR Subpart 1-15.2.

(20 U.S.C. 1221c(b)(1).)

Subpart H—Matching and Cost Sharing

§ 100a.90 Purpose and scope.

This subpart sets forth criteria and procedures for the allowability and evaluation of cash and in-kind contributions in satisfying matching or cost sharing requirements.

(OMB Circular No. A-102, Attachment F.)

§ 100a.91 Definitions.

"Cash contributions" means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as recipient's cash contributions.

"In-kind contributions" represent the value of noncash contributions provided by the recipient or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the federally-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the recipient's in-kind contributions.

"Matching or cost sharing" represents, in general, that portion of project costs not borne by the Federal Government.

"Project costs" means the sum of (a) the allowable costs incurred by the recipient and (b) the allowable in-kind contributions made by third parties.

(OMB Circular No. A-102, Attachment F.)

§ 100a.92 Allowability.

(a) Matching or cost sharing may consist of:

(1) Charges incurred by the recipient as project costs. Not all charges require cash outlays during the grant period by the recipient; examples are depreciation and use allowances for buildings and equipment.

(2) Project costs financed with cash contributed or donated to the recipient by third parties.

(3) Project costs represented by in-kind contributions made by non-Federal third parties. Where in-kind contributions are made by the Federal Government, they may be included in the recipient's matching or cost sharing only if Federal legislation authorizes such inclusion.

(b) All contributions whether cash or in-kind (including in-kind contributions from third parties) shall be accepted as part of the recipient's matching or cost sharing when such contributions:

(1) Are identifiable from the recipient's records,

(2) Are not included as contributions for any other federally assisted program, or any Federal contract,

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives,

(4) If made by the recipient, are types of costs which are allowable under the applicable cost principles specified in Subpart G of this part,

(5) Are not borne by the Federal Government directly or indirectly under any Federal grant or contract (unless the other grant or contract may, under authority of law, be used for matching or cost sharing), and

(6) Conform to other applicable provisions of this subpart.

(OMB Circular No. A-102, Attachment F.)

§ 100a.93 Valuation of in-kind contributions from third parties.

(a) *Valuation of volunteer services.*—(1) *General.* Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service may be counted as matching or cost sharing if it is an integral and necessary part of an approved program.

(2) *Rates for volunteer services.* Rates for volunteers should be consistent with those regular rates paid for similar work in other activities of the recipient. In cases where the kinds of skills required for the federally assisted activities are not found in the other activities of the recipient, rates used should be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved.

(3) *Volunteers employed by other organizations.* When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost) provided these services are in the same skill for which the employee is normally paid.

(b) *Valuation of donated real or tangible personal property or use thereof.*—(1) *Donation of title.* If the donor transfers title to the property, the amount to be allowed as matching or cost sharing shall be determined as if the recipient had purchased the property and had paid the fair market value of the property at the time of transfer.

(2) *Donation of use.* If only use of the property is donated, and the donor retains title, the amount to be allowed as matching or cost sharing shall be determined as if the recipient had rented the property and had paid the property's fair rental value.

(3) *Appraisal.* The Commissioner may require that the value of real property be established by an independent appraiser (i.e., a private realty firm or a General Services Administration representative) and certified by the responsible official of the recipient as a precondition to allowability for matching or cost sharing purposes.

(c) *Valuation of other in-kind contributions by third parties.* Other necessary in-kind contributions made by third parties specifically for and in direct benefit to the project may be accepted as matching or cost sharing: *Provided,* That they are adequately supported and permissible under the law. Such charges must be reasonable and properly justifiable.

(OMB Circular No. A-102, Attachment F.)

§ 100a.94 Supporting records for in-kind contributions from third parties.

The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

(a) The extent of volunteer services must be supported by the same methods used by the recipient for its employees.

(b) The basis for determining the charges for personal services, material, equipment, buildings and land must be documented.

(OMB Circular No. A-102, Attachment F.)

Subpart I—Procurement Standards

§ 100a.100 Scope of subpart.

This subpart provides standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part as a direct charge by the Federal Government. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive Orders.

(OMB Circular No. A-102, Attachment O.)

§ 100a.101 General.

(a) Recipients may use their own procurement policies provided that procurements whose cost is borne in whole or in part as a direct charge by the Federal Government adhere to the standards set forth in this subpart.

(b) The standards contained in this subpart do not relieve the recipient of the responsibilities arising under its contracts. The recipient is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant or contract. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(OMB Circular No. A-102, Attachment O.)

§ 100a.102 Code of conduct.

The recipient shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal funds. The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State or local law, rules or regulations, or if the recipient is not a State or local government to the extent that the recipient determines that it has the legal and practical capacity for enforcement, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards either by the recipients' officers, employees, or agents, or by contractors of their agents.

(OMB Circular No. A-102, Attachment O.)

§ 100a.103 Free competition.

All procurement transactions of the recipient, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(OMB Circular No. A-102, Attachment O.)

§ 100a.104 Procedural requirements.

The recipient shall establish procurement procedures which provide for, as a minimum, the following:

(a) Proposed procurement actions shall be reviewed by appropriate officials of the recipient to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(c) Positive efforts shall be made by the recipient to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed under Federal grants or contracts.

(d) The type of procuring instruments used (i.e., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the purposes of the project or program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) If the recipient is a State or local government, formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to § 100a.105 is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. When formal advertising is employed by the State or local government:

(1) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State or local government, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State or local government.

(3) Any or all bids may be rejected when it is in the State or local government's interest to do so, and such rejections are in accordance with applicable State or local law, rules, and regulations.

(OMB Circular No. A-102, Attachment O.)

§ 100a.105 Negotiated procurements by State or local governments.

(a) Procurements may be negotiated by State or local government recipients if it is not practicable or feasible to use formal advertising. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising;

(2) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the Commissioner for prior approval;

(3) The aggregate amount involved does not exceed $2,500;

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(5) The material or services are to be procured and used outside the limits of the United States and its possessions;

(6) No acceptable bids have been received after formal advertising;

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(8) Negotiation is otherwise authorized by applicable Federal, State, or local law rules or regulations.

(b) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(OMB Circular No. A-102, Attachment O.)

§ 100a.106 Contractor responsibility.

Contracts shall be made by recipients only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

(OMB Circular No. A-102, Attachment O.)

§ 100a.107 Records for negotiated procurements by State or local governments.

The procurement records or files of State or local government recipients for negotiated purchases in amounts in excess of $2,500 shall include the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated. Justification for the use of negotiation in lieu of advertising may be provided on a class basis or on an individual contract basis.

(OMB Circular No. A-102, Attachment O.)

§ 100a.108 Contract administration system.

A system for contract administration shall be maintained by the recipient to assure contractor compliance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow up of all purchases.

(OMB Circular No. A-102, Attachment O.)

§ 100a.109 Contract provisions.

(a) *General.* (1) The recipient shall include provisions to define a sound and complete agreement in all contracts and subcontracts which it awards when the contract or subcontract costs are to be borne as a direct charge in whole or in part by Federal funds.

(2) In awarding contracts and subcontracts, the recipient must comply with the applicable requirements of paragraph (b) of this section.

(b) *Contracts under grants and contracts.* (1) If the recipient is a State or local government, its contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts awarded by State or local government recipients in excess of $2,500 shall contain suitable provisions for termination by the recipient including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement awarded in excess of $100,000, the bonding requirements set forth in Subpart J of this part shall be observed.

(4) All negotiated contracts (except those of $2,500 or less) shall include provisions giving access to, and requiring retention of, the contractor's records in accordance with § 100a.477.

(5) Each contract of an amount in excess of $2,500 awarded by a recipient shall provide for compliance with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the contractor that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the recipient shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorised by the Cost of Living Council regulations or standards. Suspected violations shall be reported by the recipient in writing to the local Internal Revenue Service field office with a copy to the Commissioner.

(6) Contracts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. 1857b, et seq.). Suspected violations shall be reported by the recipient in writing to the regional office of the United States Environmental Protection Agency, with a copy to the Commissioner.

(OMB Circular No. A-102, Attachment O.)

Subpart J—Bonding and Insurance

§ 100a.120 General.

Recipients shall observe their regular requirements and practices with respect to bonding and insurance. No additional bonding and insurance requirements will be imposed, including fidelity bonds, except as provided in §§ 100a.121 and 100a.122.

(OMB Circular No. A-102, Attachment B.)

§ 100a.121 Construction and facility improvement.

The recipient of a grant or contract which requires contracting for construction or facility improvement (including any grant or contract which provides for alterations or renovations of real property) shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

(a) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(b) *A performance bond on the part of the contractor for 100 percent of the contract price.* A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(c) *A payment bond on the part of the contractor for 100 percent of the contract price.* A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(OMB Circular No. A-102, Attachment B.)

§ 100a.122 Loan guarantees.

Where in connection with a grant or contract, the Commissioner also guarantees the payment of money borrowed by the recipient, the Commissioner may, at his discretion, require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed to be sufficient to protect adequately the interests of the Federal Government.

(OMB Circular No. A-102, Attachment B.)

Subpart K—Construction Requirements

§ 100a.155 Scope.

The provisions contained in this subpart apply to recipients of Federal financial assistance for construction under Federal programs under which construction is authorized by law.

(20 U.S.C. 1221c(b)(1).)

§ 100a.156 Definition.

For the purposes of this subpart, the term "facilities" means one or more structures in one or more locations, constructed pursuant to this subpart.

(20 U.S.C. 1221c(b)(1).)

§ 100a.157 Manner of construction.

Construction must be functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials in comparison with facilities of a similar type constructed in the State (or other applicable geographic area) within such period as may be designated by the Commission as appropriate for the purposes of this section.

(20 U.S.C. 1221c(b)(1).)

§ 100a.158 Timeliness of work.

The recipient shall cause work on the project to be commenced within a reasonable time after receipt of notification from the Commissioner that funds have been awarded, and the project shall be prosecuted to completion with reasonable diligence.

(20 U.S.C. 1221c(b)(1).)

§ 100a.159 Commencement of construction.

(a) Approval by the Commissioner of the final working drawings and specifications shall be obtained before the proposed construction is advertised or placed on the market for bidding.

(b) The construction shall go to final completion in accordance with the application and approved drawings and specifications.

(c) The recipient shall submit to the Commissioner for prior approval changes that materially alter the scope or costs of the project, use of space, or functional layout.

(20 U.S.C. 1221c(b)(1).)

§ 100a.160 Civil rights assurance.

If an assurance of compliance with title VI of the Civil Rights Act of 1964 (Form HEW 441) applying to the facility described in the applicaton has not been filed, such an assurance shall be attached to the application.

(42 U.S.C. 2000d.)

§ 100a.161 Title to site.

The recipient shall have, or shall obtain, a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the useful life of the facilities, or 50 years, whichever is the greater.

(OMB Circular No. A-102, attachment N.)

§ 100a.164 Contracting.

(a) Except as otherwise provided by State or local law, all contracting for construction (including the purchase and installation of built-in equipment) shall be on a lump sum fixed-price basis; and, except as provided in paragraph (b) of this section, contracts shall be awarded pursuant to Subpart I of this part on the basis of competitive bidding with award of the contract to the lowest responsive and responsible bidder.

(b) If one or more items of construction are covered by an established alternative procedure for awarding contracts, consistent with State and local laws and regulations, which is approved by the Commissioner and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed.

(20 U.S.C. 1221c(b)(1).)

§ 100a.168 Reports.

The recipient shall furnish such progress reports and other information relating to the proposed construction and the project as the Commissioner may require.

(20 U.S.C. 1232c(b)(3).)

§ 100a.169 Federal access to records and work.

Representatives of the Federal Government shall have access at all reasonable times to the recipient's records and to work whenever it is in preparation or progress, and the contractor shall be required under the contract to provide proper facilities for such access and inspection.

(20 U.S.C. 1232c(a)(2).)

§ 100a.170 Operation and maintenance.

The facility shall be operated and maintained in accordance with the requirements of applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

(20 U.S.C. 1221c(b)(1).)

§ 100a.171 Cost-sharing and operational funds.

Sufficient funds shall be available to meet the non-Federal share of the cost of constructing the facility (where applicable), and sufficient funds shall be available when construction is completed to assure effective operation and maintenance of the facility for the purposes for which constructed.

(20 U.S.C. 1221c(b)(1).)

§ 100a.172 Supervision and inspection.

The recipient shall provide and maintain competent and adequate architectural engineering supervision and inspection and at the construction site to insure that the completed work conforms to the approved drawings and specifications.

(20 U.S.C. 1232c(b)(1).)

§ 100a.173 Cultural activities.

Reasonable provision shall be made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities.

(20 U.S.C. 1221c(b)(1).)

§ 100a.184 Safety and health.

In planning for and designing facilities, the recipient shall observe nationally recognized safety and health standards and codes, including National Fire Protection Association standards and those adopted under the Occupational Safety and Health Act of 1970 (Public Law 91-576): *Provided, however*, That, to the extent that State and local codes are more stringent, they shall apply.

(29 U.S.C. 651.)

§ 100a.185 Environmental impact.

Each applicant shall provide the department regional office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)

§ 100a.186 Preservation of historic sites.

Each application for Federal financial assistance for construction shall describe the relationship to and the probable effect, or lack of effect, on any district, site, building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service and published with periodical updatings in the FEDERAL REGISTER. Such information is to be furnished to the Department to enable it to take into account such an effect and to consider the comments thereon of the advisory council on historic preservation, prior to providing such Federal financial assistance, as required by section 106 of Public Law 89-665.

(16 U.S.C. 470f.)

§ 100a.187 Davis-Bacon, Copeland, and Contract Work Hours Standards Acts.

Except as otherwise provided by law, all laborers and mechanics employed by contractors and subcontractors on construction assisted under Federal programs, including minor remodeling, shall be paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Davis-Bacon Act as amended, and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act. Such contractors and subcontractors shall comply with the provisions of 29 CFR part 3 ("anti-kickback" regulations); and all construction contracts and subcontracts shall incorporate the contract clauses required by 29 CFR 5.5 (a) and (c).

(20 U.S.C. 1232b; 40 U.S.C. 276a, 276c, 327-332.)

§ 100a.188 Nondiscrimination.

Construction contracts shall include the applicable provisions of Executive Order No. 11246, as amended by Executive Order No. 11375 (nondiscrimination in construction contract employment), and the applicant shall otherwise comply with the requirements of section 301 of said Executive order.

(E.O. Nos. 11246, 11375.)

§ 100a.189 Access by the handicapped.

The recipient shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards prescribed by the Secretary or the U.S. Administrator of General Services (41 CFR 101-17.703). The applicant shall be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(42 U.S.C. 4151, 4152, 4155.)

§ 100a.190 Avoidance of flood hazards.

In the planning of the construction of facilities involving the use of Federal funds, the recipient shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 FR 10663) and such rules and regulations as may be issued by the Secretary to carry out those provisions, evaluate flood hazards in connection with such facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(E.O. No. 11296.)

§ 100a.191 Relocation assistance.

Projects receiving Federal financial assistance are subject to the regulations on relocation assistance and real property acquisition policies contained in part 15 of this title.

(20 U.S.C. 1221c(b)(1).)

§ 100a.192 Water pollution.

The recipient shall comply with Executive Order No. 11288 of July 7, 1966. (31 FR 9261), "Prevention, Control and Abatement of Water Pollution."

(E.O. No. 11288.)

Subpart L—Property Management Requirements

§ 100a.209 Scope of subpart.

This subpart prescribes policies and procedures governing title, use, and disposition of real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge by Federal grants or contracts and ownership and rights for intangible personal property developed under Federal grants and contracts.

(OMB Circular No. A-102, Attachment N.)

§ 100a.210 General.

Recipients may follow their own property management policies and procedures, provided they observe the requirements of this subpart.

(OMB Circular No. A-102, Attachment N.)

§ 100a.211 Definitions.

As used in this subpart:

"Acquisition cost" of nonexpendable personal property acquired by purchase means the net invoice price of the property, including any attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary charges such as taxes, duty, protective intransit insurance, freight, or installation shall be included in or excluded from acquisition cost in accordance with the recipient's regular accounting practices.

"Real property," means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(OMB Circular No. A-102, Attachment N.)

§ 100a.212 Real property.

Title to real property whose acquisition cost was borne in whole or in part by Federal funds shall vest in the recipient upon acquisition. In the absence of applicable statutory provisions governing the use or disposition of such property, it shall be subject to the following requirements, in addition to (and subject to) any other requirements imposed by statute or regulation.

(a) The recipient shall use the real property for the purposes authorized by the original grant or contract as long as needed.

(b) The Commissioner may authorize the recipient to use the property for the following (but no other) purposes when the grantee determines that the property is no longer needed for the originally authorized purposes:

(1) Activities sponsored by other Federal awards (regardless of which Federal agency makes the other awards), or

(2) Activities not sponsored by other Federal awards, but which, nevertheless, have purposes consistent with those of the legislation under which the original award was made.

(c)(1) When no longer used in accordance with paragraphs (a) and (b) of this section, the recipient shall return to the control of the Commissioner all real property whose acquisition cost was borne wholly by Federal funds. If the acquisition cost of the property was borne partly by Federal funds, the recipient may be relieved of accountability to the Federal Government with respect to the Federal interest in the property by compensating the Federal Government for its fair share of the current value of the property, or if the recipient no longer needs the property, by selling it and compensating the Federal Government for its fair share of the sales proceeds.

(2) The amount of compensation to the Federal Government under subparagraph (1) of this paragraph shall be computed by applying the percentage of Federal participation in the cost of the project for which the property was acquired to the property's current fair market value (if the recipient retains the property) or to the proceeds from sale (if the recipient sells the property). In most cases, the real property will have been acquired under an award whose purpose was to assist the recipient in acquiring the property (e.g., a construction grant). In such cases, the "total cost of the project for which the property was acquired" will ordinarily be the same as the acquisition cost of the property.

(OMB Circular No. A-102, Attachment N.)

§ 100b.215 Nonexpendable personal property.

(a) *Title.*—When nonexpendible personal property is acquired by a recipient wholly or in part with Federal funds, title shall be vested in the recipient.

(b) *Use.*—(1) The recipient shall retain such property in the project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for such property to accomplish the purpose of the project, the recipient shall use the property in connection with other Federal awards it has received in the following order or priority:

(i) Other awards under Federal programs administered by the Commissioner needing the property,

(ii) Awards of other Federal agencies needing the property.

(3) When the recipient no longer has need for such property in any of its federally assisted projects, the property may be used for the recipient's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used 4 years or more, the recipient may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) For all of such property not covered under subparagraph (3)(i) of this paragraph, the recipient may retain the property for its own use provided that a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the cost of the project to the current fair market value of the property.

(c) *Disposition.*—If the recipient has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section) the recipient shall sell the property and reimburse the Federal Government in accordance with subparagraph (2)(iii) of this paragraph.

(2) If the property had an acquisition cost of over $1,000 per unit, the recipient shall request disposition instructions from the Commissioner. The Commissioner will issue instructions to the recipient within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the recipient is instructed to ship the property elsewhere, the recipient will be reimbursed by the Federal Government with an amount which is computed by applying the percentage of the recipient's participation in the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the recipient is instructed to otherwise dispose of the property, the recipient will be reimbursed by the Federal Government for the costs incurred in such disposition.

(iii) If disposition instructions are not issued within the 120-day period specified in subparagraph (2) of this paragraph, the recipient shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the project to the sales proceeds. The recipient may, however, deduct and retain from that amount, $100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(d) *Special property.*—Where the Commissioner determines that nonexpendable personal property with an acquistion cost of $1,000 or more and financed soley with Federal funds is unique, or difficult or costly to replace, he may reserve the right to require the recipient to transfer title to the property to the Federal Government or to a third party to be named by the Commissioner, subject to the following provisions:

(1) The right to require the transfer of title may be reserved only by means of an express special condition in the grant or contract, or if approval for the acquisition of the property is given after the grant is awarded, by means of a written stipulation at the time the approval is given.

(2) The property shall be appropriately identified in the award document or otherwise made known to the recipient.

(3) The Commissioner will not exercise this right until the recipient no longer needs the property in the project for which it was acquired. That need will be deemed to end on the date of completion or termination of the grant or contract unless the recipient continues to conduct the project after that date and demonstrates to the Commissioner a continued need for the property in the project.

(4) The Commissioner will issue disposition instructions within 120 days after the completion of the need for the property under the project for which it was acquired. If instructions are not issued within such 120-day period the Commissioner's right shall lapse, and the recipient shall apply the applicable standards contained in paragraphs (b)(1), (b)(2), (b)(3)(ii), and (c)(2) of this section.

(5) The recipient shall be entitled to reimbursement for any shipping and interim storage costs it incurs pursuant to the Commissioner's disposition instructions.

(e) *Property management standards.*—Recipients' property management standards for nonexpendable personal property shall also include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for: (i) A description of the property; (ii) manufacturer's serial number or other identification number; (iii) acquisition date and cost; (iv) source of the property; (v) percentage of Federal funds used in the purchase of the property; (vi) location, use, and condition of the property; and (vii) ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. The recipient shall be responsible for replacing or repairing (with funds of such recipient) property which is lost, damaged, or destroyed due to the negligence of the recipient.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(OMB Circular No. A-102, Attachment N.)

§ 100a.216 Expendable personal property.

(a) The recipient may at its option either retain or sell items of expendable personal property when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies).

(b) Compensation to the Federal government is required if the aggregate fair market value of all of those items acquired under the grant or contract exceeds $500 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project to the current fair market value of items retained, and to the sales proceeds of items sold.

(OMB Circular No. A-102, Attachment N.)

§ 100a.217 Intangible personal property of State and local governments.

(a) This section applies only to recipients which are State and local governments.

(b) Where a project results in a book or other copyrightable material, the author or recipient is free to copyright the work, but the Commissioner reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(OMB Circular No. A-102, attachment N.)

§ 100a.218 Publications.

Any publication or presentation resulting from or primarily related to Federal financial assistance shall contain the following acknowledgment:

> The activity which is the subject of this report was supported in whole or in part by the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

(20 U.S.C. 1221c(b)(1).)

§ 100a.219 Copyrights and patents.

(a) *Copyrights.* (1) Copyright standards for State and local governments are contained in § 100a.217.

(2) Any material of a copyrightable nature produced by a recipient other than a State or local government with Federal assistance shall be subject to the copyright policy of the U.S. Office of Education set forth in its "Copyright Guidelines" of May 9, 1970 (35 FR 7317), or any modification thereof in effect at the time of the award.

(b) *Patents.* (1) All inventions conceived or first actually reduced to practice in the course of or under a grant or contract are subject to Parts 6 and 8 of this title. Each invention shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare.

(2) Determination as to ownership and disposition of rights to those inventions, including whether a patent application shall be filed, and, if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may be issued shall be made either:

(i) By the Federal Government, or

(ii) Where the recipient has a separate formal institutional patent agreement with the Department ,by the recipient in accordance with that agreement.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A-102, Attachment N)

§ 100a.220 Determining percentage of participation.

(a) Various provisions in this subpart require a determination of the percentage of Federal (or recipient) participation in the cost of the project or program in order to compute the amount of compensation for the value, or proceeds from sale of property. In determining the applicable percentage, there shall first be deducted from the allowable costs incurred during the period for obligation, any royalties or other income (not including interest income or proceeds from sale of property) earned by the federally-supported project or program during the period for obligation.

(b) The deduction of income required by paragraph (a) of this section is independent of, and is not intended to control, the disposition of such income pursuant to Subpart M of this part.

(OMB Circular No. A-102, Attachment N.)

Subpart M—Program Income

§ 100a.230 Scope of subpart.

This subpart sets forth standards for recipients in accounting for program income and other income related to projects and programs financed in whole or in part with Federal funds.

(OMB Circular No. A-102, Attachment E.)

§ 100a.231 Meaning of program income.

As used in this subpart, the term "program income" shall have the meaning set forth for that term in § 100a.401.

(OMB Circular No. A-102, Attachment E.)

§ 100a.232 Interest income.

(a) As used in paragraph (b) of this section:

(1) The term "State" shall have the meaning set forth in section 102 of the Intergovernmental Cooperation Act of 1968.

(2) The term "grant-in-aid" shall have the meaning set forth for that term in section 106 of the Intergovernmental Cooperation Act of 1968.

(b) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968, States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes.

(c) In all other cases, recipients shall remit to the Federal Government any interest earned on advances of Federal funds.

(Pub. L. 90-577, secs. 102, 106, 203: OMB Circular No. A-102, Attachment E.)

§ 100a.233 Sale of real and personal property.

Proceeds from the sale of real and tangible personal property whose acquisition cost was borne in whole or in part by Federal funds shall be handled in accordance with Subpart L of this part.

(OMB Circular No. A-102, Attachment N.)

§ 100a.234 Royalties.

(a) *Applicability.*—(1) *Copyrights.* This section applies to royalties received by recipients from copyrights on publications or other works developed under a Federally-assisted grant or contract.

(2) *Patents.* This section also applies to royalties received by recipients from patents on inventions conceived or first actually reduced to practice in the course of or under a Federally-assisted grant or contract.

(b) *During the grant period.* (1) If the recipient is a State or local government, royalties received during the grant period shall be retained by the recipient. The terms and conditions of the grant or contract shall provide either:

(i) That such royalties shall be used by the recipient for any purposes which further the objectives of the legislation under which the grant was made, or

(ii) That such royalties shall be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(2) When the recipient is a State or local government, the recipient shall elect either of the alternatives specified in subparagraph (1) of this paragraph in the terms and conditions of the grant or contract do not specify which is to be followed.

(3) If the recipient is not a State or local government; disposition of royalties received during the grant period shall be governed by § 100a.219(a)(2) and (b).

(c) *After the grant period*—(1) *Copyrights.* If the recipient is a State or local government and the Commissioner and the recipient have not agreed to apply § 100a.219(a)(2), the Federal share of copyright royalties in excess of $200 received annually shall be paid by the recipient to the Federal Government. In such cases, the Federal share of the royalties shall be computed on the same ratio basis as the percentage of Federal participation in the cost of the project or program. This percentage of participation shall be determined in accordance with § 100a.220.

(2) *Patents.* Disposition of patent royalties received after the termination or completion of the period for obligation shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the recipient, pursuant to the Department's patent regulations (Parts 6 and 8 of this title).

(OMB Circular No. A-102, Attachment E.)

§ 100a.235 Other program income.

(a) This section applies to all program income earned during the grant period except royalties and proceeds from the sale of real property or tangible personal property.

(b) All such income earned during the period for obligation shall be retained by the recipient. The recipient may elect either of the following alternatives to satisfy its accountability to the Federal Government for the income:

(1) The income may be used by the recipient for purposes which further the objectives of the legislation under which the award was made, or

(2) The income may be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(OMB Circular No. A-102, Attachment E.)

§ 100a.236 Earmarked revenues of State or local governments.

State or local government recipients shall record the receipt and expenditure of revenues such as taxes, special assessments, levies, fines, etc., as a part of grant project transactions when such revenues are specifically earmarked for a project in accordance with the terms and conditions of a grant or contract.

(OMB Circular No. A-102, Attachment E.)

Subpart N—Miscellaneous Requirements

§ 100a.250 Financial interest prohibited.

A person who is a public official, officer, or member of, or who is otherwise associated with a recipient, may not participate in an administrative decision with respect to the recipient's project, if such decision can be expected to result in any benefit or remuneration, including, without limitation, a royalty, commission, contingent fee, brokerage fee, or other benefit, to him or to any member of his immediate family.

(20 U.S.C. 1232c(b)(1).)

§ 100a.255 Commencement of project activity.

Projects receiving Federal financial assistance shall be commenced within a reasonable period of time subsequent to the awarding of the grant or contract.

(20 U.S.C. 1232(b)(1).)

§ 100a.258 Leasing facilities.

In the case of a project involving the leasing of a facility, the recipient shall demonstrate to the Commissioner that it will have the right to occupy, to operate, and, if necessary, to maintain and improve the leased facility during the proposed period of the project.

(20 U.S.C. 1221c(b)(1).)

§ 100a.260 Changes in key personnel.

If for any reason it becomes necessary to substitute the project director or other key professional staff designated in the grant or contract, the recipient shall provide timely written notification to the Commissioner of such substitution. Such written notification shall include the name and qualifications of the successor.

(20 U.S.C. 1221c(b)(1).)

§ 100a.261 Dual compensation.

If a project staff member or consultant is involved in two or more projects, at least one of which is supported by Federal funds under this chapter, he may not be compensated for more than 100 percent of his time during any part of the period of dual involvement. The recipient shall not use any Federal funds or funds from other sources to pay a fee to, or travel expenses of, employees of the Department for lectures, attending program functions, or any other activities in connection with the grant or contract.

(20 U.S.C. 1221c(b)(1).)

§ 100a.262 Civil rights.

(a) Federal financial assistance is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88-352).

(42 U.S.C. 2000d)

(b) Federal financial assistance is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Public Law 92-318, title IX)

§ 100a.263 Data-collection instruments.

(a) *Definitions.*—For the purposes of this section:

(1) "Data-collection instruments" includes tests, questionnaires, inventories, interview schedules or guides, rating scales, and survey plans or any other forms which are used to collect information on substantially identical items from 10 or more respondents.

(2) "Respondents" means individuals or organizations from whom information is collected.

(b) *Applicability.* This section does not apply to instruments which deal solely with (1) functions of technical proficiency, such as scholastic aptitude, school achievement, and vocational proficiency; (2) routine demographic information; or (3) routine institutional information.

(c) *Protection of privacy.* (1) Data-collection instruments shall not be used which constitute unnecessary or offensive intrusions of privacy through inquiries regarding such matters as religion, sex, race, or politics.

(2) In using data-collection instruments, recipients shall provide for anonymity and confidentiality of response of individual respondents.

(d) *Clearance not required.* (1) Recipients are not required to submit data-collection instruments to the Commissioner or obtain the Commissioner's approval for the use of those instruments, except where the grant or contract document specifically so provides.

(2) If a recipient wishes to have Federal approval (Office of Education; Department of Health, Education, and Welfare; and the Office of Management and Budget) of a data-collection instrument, the recipient shall submit seven copies of the document to the Commissioner along with seven copies of the Office of Management and Budget's Standard Form No. 83 and seven copies of the Supporting Statement as required in the "Instructions for Requesting OMB Approval under the Federal Reports Act" (Standard Form No. 83A).

(e) *Responsibility for collection of information.*—The recipient shall not in any way represent or imply (either in a letter of transmittal, in the data-gathering instruments themselves, or in any other manner) that the information is being collected by or for the Federal Government or any of its subdivisions. Basic responsibility for the study and the data-gathering instruments rests with the recipient.

(f) *Parental consent.*—In the case of any survey using data-collection instruments (except those specified in paragraph (b) of this section), which will include children below the age of 18 as respondents, the recipient shall provide assurances satisfactory to the Commissioner that informed consent will be obtained from the parents of such respondents prior to the use of such instruments.

(20 U.S.C. 1221c(b)(1).)

§ 100a.270 Treatment of animals.

If animals are utilized in any project receiving assistance, the applicant for such assistance shall provide assurances satisfactory to the Commissioner that such animals will be provided with proper care and humane treatment in accordance with the Animal Welfare Act of 1970 (Pub. L. 89-544, as amended).

(20 U.S.C. 1221c(b) (1).)

§ 100a.275 Coordination.

Each project shall be developed so as to be in coordination, to the extent feasible, with other public and private programs for similar educational purposes. Such coordination shall continue during the period in which such project remains in effect.

(20 U.S.C. 1232c(b) (1).)

§ 100a.276 Evaluation.

Each project shall include procedures for effective evaluation of the extent to which project objectives are being met.

(20 U.S.C. 1221c(b) (1).)

§ 100a.290 General grant terms and conditions.

(a) The general terms and conditions set forth in appendix A to this subchapter are prescribed for use in connection with grants to eligible parties under any Federal program to which this part is applicable. Each grant awarded under any such program shall be governed by such general terms and conditions except to the extent that any such term or condition is inconsistent with a special term or condition made specifically applicable to such grant and set forth in the grant award document.

(b) In any case where a general or special term or condition is inconsistent with a statute or published regulation applicable to that Federal program (including a regulation contained in this part), the statute or regulation shall govern.

(20 U.S.C. 1221c(b) (1).)

Subpart O—Financial Management Systems

§ 100a.300 Scope of subpart.

This subpart prescribes standards for financial management systems of federally-supported activities conducted by recipients.

(OMB Circular No. A-102, Attachment G.)

§ 100a.301 Standards.

Financial management systems for grants and contracts shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant or contract in accordance with Subpart P of this part. Except when specifically required by law, the Commissioner will not require financial reporting on the accrual basis from organizations whose records are not maintained on that basis. However, when accrual reporting is required by law, organizations whose records are not maintained on that basis will not be required to convert their accounting systems to the accrual basis; they may develop the accrual information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant- or contract-supported activities. These records shall contain information pertaining to grant or contract awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all grant or contract funds, and real and personal property acquired with grant or contract funds. Grantees and contractors shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant or contract, and, when specifically required by the performance reporting requirements of the grant or contract, relation of financial information with performance or productivity data, including the production of unit cost information.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient, whenever cash is advanced by the Federal Government. When advances are made by a letter-of-credit method, the recipient shall make drawdowns from the U.S. Treasury through its commercial bank as close as possible to the time of making the disbursements.

(f) Procedures for determining the allowability and allocability of costs in accordance with the applicable cost principles prescribed by Subpart G of this part.

(g) Accounting records which are supported by source documentation.

(h)(1) If the grantee or contractor is a State or local government, audits to be made by the State or local government or at its direction to determine, at a minimum, the fiscal integrity of grant or contract financial transactions and reports, and the compliance with the terms and conditions of the grant or contract. The grantee or contractor will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(2) Recipients other than State and local governments are encouraged, but not required, to meet the standards set forth in subparagraph (1) of this paragraph.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(OMB Circular No. A-102, Attachment G.)

Subpart P—Financial Reporting Requirements

§ 100a.400 Scope of subpart.

This subpart prescribes requirements for recipients to report financial information to the Commissioner and to request advances and reimbursement when a letter-of-credit method is not used, and promulgates standard forms incident thereto.

(OMB Circular No. A-102, Attachment H.)

§ 100a.401 Definitions.

As used in this subpart and in the forms identified by this subpart:

"Accrued expenditures" are the charges incurred by the recipient during a given period requiring the provision of funds for: (a) Goods and other tangible property received; (b) services performed by employees, contractors, and other payees; and (c) amounts becoming owed under programs for which no current services or performance are required.

"Accrued income" is the earnings during a given period which is a source of funds resulting from (a) services performed by the recipient, (b) goods and other tangible property delivered to purchasers, and (c) amounts becoming owed to the recipient for which no current services or performances are required by the recepient.

"Disbursements" are payments in cash or by check.

"Federal funds authorized" represents the total amount of the Federal funds authorized for obligations and establishes the ceiling for obligation of Federal funds. This amount may include any authorized carryover of unobligated funds from prior fiscal years.

"In-kind contributions" represent the value of noncash contributions provided by the recipient or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and value of goods and services directly benefiting and specifically identifiable to the federally supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the recipient's in-kind contributions.

"Obligations" are the amounts of orders placed, contracts awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

"Outlays" represent charges made to the project or program. Outlays may be reported on a cash or accrued expenditure basis.

"Program income" represents earnings by the recipient realized from the federally supported activities as a result of the grant or contract. Such earnings exclude interest income and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, sale of assets purchased with grant or contract funds, and royalties on patents and copyrights. Program income may be reported on a cash or accrued income basis.

"Unobligated balance" is the portion of the funds authorized by the Commissioner which has not been obligated by the recipient and is determined by deducting the cumulative obligations from the funds authorized.

"Unpaid obligations" represent the amount of obligations incurred by the recipient which have not been paid.

(OMB Circular No. A-102, Attachment H.)

§ 100a.402 Authorized forms and instructions.

(a) Only those forms specified in §§ 100a.403 through 100a.406, inclusive, and such supplementary or other forms as may from time to time be authorized by the Commission, may be used:

(1) For obtaining financial information from recipients for federally-assisted programs, or

(2) For requesting advances or reimbursements when letters of credit are not used.

(b) All applicable standard instructions promulgated for use in connection with the forms specified in §§ 100a.403 through 100a.406, inclusive, shall be followed.

(c) Recipients shall submit the original and two copies of the forms required pursuant to this subpart. However, the Commissioner may waive the requirement for the second copy, or both copies, when not needed.

(d) The forms (with their instructions) specified in §§ 100a.403 through 100a.406, inclusive, will be available to the public upon request to the Commissioner.

(OMB Circular No. A-102, Attachment H.)

§ 100a.403 Financial status report.

(a) *Form.* Recipients shall use the standard Financial Status Report prescribed by Attachment H of OMB Circular No. A-102 (HEW Form 601T) to report the status of funds for all nonconstruction projects. The Commissioner may choose not to require the Financial Status Report when the Request for Advance or Reimbursement (see § 100a.405) is determined to provide adequate information to meet his needs, except that a final Financial Status Report is required at the completion of the grant or contract when the Request for Advance or Reimbursement form is used only for advances.

(b) *Accounting basis.* Each recipient shall report outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which it used in maintaining its accounting records. The basis used by a recipient must be consistent for all grants and contracts.

(c) *Frequency.* For research project grants and contracts, reports shall be submitted annually, and a final report shall be submitted upon completion or termination of Federal support. For all other types of grants and contracts, the Commissioner will prescribe the frequency of the report, considering the size and complexity of the particular program. However, the report will not be required more frequently than quarterly, or less frequently than annually, and a final report is required upon completion or termination of Federal support.

(d) *Due date.* When reports are required on a quarterly or semi-annual basis, they shall be due thirty days after the end of the specified reporting period. When required on an annual basis, they shall be due ninety days after the end of the grant or contract year. Final reports shall be due ninety days after the completion or termination of Federal support. Justified requests from individual recipients for extension of reporting due dates will be approved whenever feasible.

(OMB Circular No. A-102, Attachment H.)

§ 100a.404 Report of Federal cash transactions.

(a) *Form.* When funds are advanced to recipients through letters of credit or with Treasury checks, each recipient shall submit the Report of Federal Cash Transactions prescribed by Attachment H of OMB Circular No. A-102 (HEW Forms 602T, 603T). This report will be used to monitor cash advanced to recipients and to obtain disbursement or outlay information for each project from the recipients. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment, provided that the information to be submitted is not changed.

(b) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(c) *Cash in hands of secondary recipients.* When deemed necessary and feasible by the Commissioner, recipients may be required to report in the "Remarks" section of the report the amount of cash advances in excess of three days' requirements in the hands of secondary recipients, and to provide short narrative explanations of actions taken by the recipients to reduce the excess balances.

(d) *Frequency and due date.* Recipients shall submit the Report of Federal Cash Transactions no later than fifteen working days following the end of each quarter. However, where a letter of credit authorizes advances at an annualized rate of one million dollars or more, the Commissioner may require the reports to be submitted within fifteen working days following the end of each month.

(e) *Waiver.* The Commissioner may waive the requirement for submission of the Report of Federal Cash Transactions when a recipient's monthly advances do not exceed $10,000: *Provided,* That such advances are monitored through other forms authorized pursuant to this subpart, or the recipient's accounting controls are adequate to minimize excessive Federal advances.

(OMB Circular No. A-102, Attachment H.)

§ 100a.405 Request for advance or reimbursement.

(a) Recipients shall submit their requests for advance payments or reimbursements under nonconstruction grants or contracts and their requests for advance payments under construction grants or contracts, on the Request for Advance or Reimbursement form prescribed by Attachment H of OMB Circular No. A-102 (HEW Form 604T) when letters of credit or predetermined automatic Treasury check advance methods are not used. Additionally, the Commissioner may prescribe this form for construction grants in lieu of the Outlay Report and Request for Reimbursement for Construction Programs as specified in § 100a.406(d).

(b) Recipients will be authorized to submit no less often than monthly their requests for advances or reimbursement when letters of credit or predetermined automatic Treasury check advance methods are not used.

(OMB Circular No. A-102, Attachment H.)

§ 100a.406 Outlay report and request for reimbursement for construction projects.

(a) *Construction grants paid by reimbursement method.* (1) Requests for reimbursement under construction grants and contracts shall be submitted on the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A-102. The Commissioner may, however, substitute the Request for Advance or Reimbursement form specified in § 100a.405 in lieu of this form when he determines that the former provides adequate information to meet his needs.

(2) Recipients will be authorized to submit no less often than monthly their requests for reimbursement under construction grants and contracts.

(b) *Construction grants and contracts paid by letter of credit or Treasury check advances.* (1) When a construction grant or contract is paid by letter of credit or Treasury check advances, the recipient shall report its outlays to the Commissioner using the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A-102. In these cases, the recipient should leave blank those items on the form which are applicable only when requesting reimbursement, i.e., items 3, 5, 10, 11t, 11u, and 11v.

(2) In lieu of the certification and signatures in items 12, 12a, and 12b, the following certification, signed on behalf of the recipient by an authorized official of the recipient, shall be submitted to the Commissioner with the outlay report:

> I certify that to the best of my knowledge and belief the accompanying report is correct and complete and that all outlays reported therein are for the purposes set forth in the grant (contract) award documents.

Information as to percentage of project completion and certification thereof by the Government representative shall be submitted independently of the outlay report at such times and by such means as may be prescribed by the Commissioner.

(3) Frequency and due date of the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 100a.403 (c) and (d).

(c) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 100a.-403(b).

(d) *Alternative forms.* For construction grants and contracts paid by the reimbursement method, or by Treasury check advances based on periodic requests from the recipient, the Commissioner may substitute the Request for Advance or Reimbursement specified in § 100a.405 in lieu of the Outlay Report and Request for Reimbursement for Construction Programs. When any other payment method is used, the Commissioner may substitute the Financial Status Report specified in § 100a.403.

(OMB Circular No. A-102, Attachment H.)

Subpart Q—Monitoring and Reporting of Program Performance

§ 100a.430 Scope of subpart.

This subpart sets forth the procedures for monitoring and reporting program performance. These procedures are designed to place greater reliance on recipients to manage the day-to-day operations of their federally-supported activities.

(OMB Circular No. A-102, Attachment I.)

§ 100a.431 Monitoring by recipients.

Recipients shall constantly monitor the performance under federally-supported activities to assure that adequate progress is being made towards achieving the goals of the project. This review shall be made for each function or activity of each project as set forth in the approved grant application or contract document.

(OMB Circular No. A-102, Attachment I.)

§ 100a.432 Performance reports for nonconstruction projects.

(a) Where the Commissioner determines that performance information sufficient to meet his programmatic needs will be available from continuation or renewal applications, the Commissioner will require the recipient to submit a performance report only with the final Financial Status Report (or other financial report equivalent thereto). Note that the "Application for Federal Assistance (Nonconstruction Programs" prescribed by Subpart C of this part, when used to request a continuation or renewal, provides information substantially equivalent to a performance report.

(b) Except as provided in paragraph (a) of this section, grantees shall submit a performance report with each Financial Status Report (or other financial report equivalent thereto) in the frequency established by Subpart P of this part. The Commissioner will prescribe the frequency with which performance reports will be submitted with the Request for Advance or Reimbursement when that form is used in lieu of the Financial Status Report; in such cases, performance reports will be required not more frequently than quarterly, or less frequently than annually.

(c) Performance reports shall include, to the extent appropriate to the particular grant or contract, a brief presentation of the following for each function or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of projects can be readily quantified, such quantitative data shall be related to cost data for computation of unit costs.

(2) Reasons for slippage in those cases where established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(OMB Circular No. A-102, Attachment I.)

§ 100a.433 Performance reports for construction projects.

In general, the Commissioner will rely heavily on onsite technical inspection and certified percentage-of-completion data to keep himself informed as to progress under construction grants and contracts. Therefore, formal performance reports from recipients to supplement those sources of information will be required only if deemed necessary by the Commissioner, and in no case more frequently than quarterly.

(OMB Circular No. A-102, Attachment I.)

§ 100a.434 Significant developments between scheduled reporting dates.

Between the scheduled performance reporting dates, events may occur which have significant impact upon the federally-supported activity. In such cases, the recipient shall inform the Commissioner as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to attain the objectives of the grant or contract. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(b) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

(OMB Circular No. A-102, Attachment I.)

§ 100a.435 Budget revision.

If any performance review conducted by the recipient discloses the need for change in the budget estimates in accordance with the criteria established in § 100a.29, the recipient shall submit a request for budget revision.

(OMB Circular No. A-102, Attachment I.)

§ 100a.436 Site visits.

Site visits will be made by representatives of the Department or the Commissioner as frequently as practicable to:

(a) Review program accomplishments and management control systems; and

(b) Provide such technical assistance as may be required.

(OMB Circular No. A-102, Attachment I.)

Subpart R—Accountability for Federal Funds

§ 100a.477 Retention of records.

(a) *Records.* Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any) in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.*—(1) Except as provided in paragraphs (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained (i) for 3 years after the date of the submission of the final expenditure report or (ii) for grants and contracts which are renewed annually, for 3 years after the date of the submission of the annual expenditure report.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.*—Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.*—The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions: *Provided, however,* That records need not be retained if they relate to a grant or contract with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b)

(e) *Audit and examination.*—(1) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to the records specified in paragraph (a) of this section and to any other pertinent books, documents, papers, and records of the recipient.

(2) In the case of a contract or subcontract negotiated by the recipient and exceeding $2,500, the recipient, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor or subcontractor which the recipient, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives determine are pertinent to the specific grant or contract for the purpose of making audit, examination, excerpts, and transcripts.

(f) *Records for indirect cost rate proposals, etc.*—(1) *Applicability.* This paragraph applies to records supporting (i) indirect cost rate proposals, (ii) cost allocation plans of State and local governments pursuant to Appendix B of this subchapter, (iii) hospital patient care rate proposals, and (iv) any similar accounting computations of the rate at which a particular group of costs is chargeable to a grant or contract. Examples of the latter are computer usage chargeback rate computations and composite fringe benefit rate computations.

(2) *If submitted to the Federal Government.* If the proposal, plan, or other computation is required to be submitted to the Federal Government to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

(3) *If not submitted to the Federal Government.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government for negotiation purposes, then the three-year retention period for its supporting records starts from the end of the recipient's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(20 U.S.C. 1232c (a); 28 U.S.C. 2415 (b); OMB Circular No. A-102, Attachment C.)

§ 100a.481 Unexpended funds.

In the event that the amounts previously awarded have not been obligated pursuant to the approved project and, in the judgment of the Commissioner, will not be obligated for such purposes, the Commissioner may, upon notice to the recipient, reduce the amount of the grant or contract to an amount consistent with the recipient's needs pursuant to § 100a.-495.

(20 U.S.C. 1232d.)

§ 100a.482 Withholding of funds.

The approval of a grant, or the entering into of a contract or other arrangement, and any payment pursuant thereto, shall not be deemed to waive the right of the Commissioner to withhold funds by reason of the failure of a recipient to observe, either before or after such administrative action, any Federal requirements.

(20 U.S.C. 1221c(b)(1).)

§ 100a.483 Waiver of law prohibited.

No official, agent, or employee of the Office of Education or the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the regulations in this chapter (except through amendment by publication in the FEDERAL REGISTER), or other relevant statute or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Commissioner's right to enforcement of said provisions in accordance with their terms.

(43 Dec. Comp. Gen. 31 (1963).)

§ 100a.494 Closeout.

(a) "Closeout" means the process by which the Commissioner determines that all applicable administrative actions and all required work of the grant or contract have been completed by the recipient and the Commissioner.

(b) In closing out grants and contracts, the following shall be observed:

(1) Upon request, the Commissioner will make, or arrange for, prompt payment to the recipient for allowable reimbursable costs not covered by previous payments.

(2) The recipient shall immediately refund to the Federal Government, or otherwise dispose of in accordance with instructions from the Commissioner, any unencumbered balance of cash advanced to the recipient.

(3) The recipient shall submit, within 90 days after the date of completion of the grant or contract, all financial, performance, and other reports required as a condition of the grant or contract. The Commissioner may grant extensions when requested by the recipient.

(4) The Commissioner will make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by applicable statutes, regulations, or the terms and conditions of the grant or contract.

(5) In the event a final audit has not been performed prior to the closeout of the grant or contract, the Commissioner retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(b) The provisions of Subpart L of this part shall be observed by the recipient in accounting for any property acquired with Federal funds, or received from the Federal Government in connection with the grant or contract.

(OMB Circular No. A-102, Attachment L.)

§ 100a.495 Termination and suspension for cause.

(a) *Termination.*—(1) This section applies to the Federal programs of assistance listed in § 100a.10(a), except those Federal programs under which recipients are entitled to an opportunity for a hearing pursuant to 5 U.S.C. 554. (2) This section applies to contracts other than those specified in § 100a.10 (b). (3) Assistance under any Federal program to which this part is applicable may be terminated in whole or in part if the Commissioner determines, after affording the recipient reasonable notice and an opportunity to be heard, that the recipient has failed to carry out its approved project proposal in accordance with the applicable law and the terms of such assistance or has otherwise failed to comply with any law, regulation, assurance, term or condition applicable to the grant or contract.

(b) *Notice of termination.* Proceedings with respect to the termination of the grant or contract shall be initiated by the mailing of a notice to the recipient setting forth the basis of the proposed termination and the procedures available to the recipient under this section and Part 16 of this title.

(c) *Suspension of assistance.* Subject to paragraph (f) of this section, assistance may be suspended during the pendency of a termination proceeding initiated pursuant to this section.

(d) *Notice of suspension.* If the Commissioner determines that suspension of assistance during the pendency of a termination proceeding is necessary, notice of the suspension shall be mailed to the recipient (which may be included in the notice of termination). The notice of suspension shall: (1) Inform the recipient of that determination, (2) advise the recipient of the effective date of the suspension (which will be no earlier than the date of the notice of termination) and (3) offer the recipient an opportunity to show cause why such action should not be taken.

(e) *Effect of notice of suspension.* (1) The notice required under paragraph (d) of this section shall advise the recipient that no new expenditures or obligations made or incurred in connection with the grant or contract during the period of the suspension will be recognized by the Government in the event that assistance is ultimately terminated. (2) Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the recipient's approved project, and not in anticipation of suspension or termination, will not be considered new expenditures.

(f) *Opportunity to show cause.*—If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for that purpose.

(g) *Grant appeals board.* (1) The recipient may appeal the Government's decision to terminate the grant or contract by submitting an application for review to the Departmental Grant Appeals Board pursuant to Part 16 of this title. (2) Either the recipient or the Commissioner may request an informal meeting regarding the proposed termination, but for the purposes of § 16.5(b)(2) of this title, the recipient shall be deemed to have exhausted the Office of Education's informal procedures upon its receipt of the notice of termination.

(h) *Effective date of termination.* Termination of assistance under this section will be effected by the delivery to the recipient of the notice of termination under paragraph (b) of this section; or, where the recipient invokes the procedures available under paragraph (g) of this section, upon a final decision under § 16.10 of this title.

(i) *Effect of termination.*—(1) In the event assistance is terminated under this section, financial obligations incurred by the recipient prior to the effective date of such termination will be allowable to the extent they would have been allowable had such assistance not been terminated, except that (i) no obligations incurred during the period in which such assistance was suspended and no obligations incurred in anticipation of suspension or termination will be allowed and (ii) the recipient shall cancel as many outstanding obligations as possible.

(2) Within 60 days of the effective date of termination of assistance under this section, the recipient shall furnish an itemized accounting of funds expended, obligated, and remaining. Within 30 days of a request therefor, the recipient shall remit to the Government any amounts found due.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A-102, attachment L, 2–3.)

§ 100a.496 Termination on other grounds.

(a) Except for matters subject to § 100a.495, grants and contracts may be terminated in whole or in part only as follows:

(1) By the Commissioner with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial terminations, the portion to be terminated, or

(2) By the recipient, upon written notification to the Commissioner, setting forth the reasons for the termination, the effective date, and in the case of partial terminations, the portion to be terminated.

(b) When a grant is terminated pursuant to paragraph (a) of this section, the recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Commissioner will allow full credit to the recipient for the Federal share of the noncancellable obligations properly incurred by the recipient prior to termination.

(OMB Circular No. A-102, Attachment L.)

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AUTHORITY: Sec. 403(b)(1), Pub. L. 90–247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

Subpart A—General

§ 100b.10 Scope.

Except to the extent inconsistent with an applicable statute or regulation, the provisions contained in this part apply to all Federal programs of assistance authorized under the following authorities:

(a) Financial assistance to local educational agencies for the education of children of low-income families under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a);

(b) School library resources, textbooks, and other instructional materials under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821);

(c) Supplementary educational centers and services; guidance, counseling, and testing under title III of the Elementary and Secondary Education Act of 1965, except section 306 thereof (20 U.S.C. 841);

(d) Assistance to States for education of handicapped children under part B of the Education of the Handicapped Act (20 U.S.C. 1411);

(e) State vocational education programs, research and training in vocational education, exemplary programs and projects, and residential vocational schools—State programs; and consumer and homemaking education, cooperative vocational education programs, and work-study programs for vocational education students under part B, sections 131(b), 142(d), and 152; and parts F, G, and H, respectively, of the Vocational Education Act of 1963 (20 U.S.C. 1262, 1281(b), 1302(d), 1322, 1341, 1351, and 1371);

(f) Programs under the Adult Education Act (except special experimental demonstration projects and teacher training under sections 309 and 314 thereof) (20 U.S.C. 1201);

(g) Programs under the Library Services and Construction Act (20 U.S.C. 351);

(h) Community service and continuing education program under title I of the Higher Education Act of 1965 (20 U.S.C. 1001);

(i) Financial assistance for strengthening instruction in science, mathematics, modern foreign languages, and other critical subjects under title III of the National Defense Education Act of 1958 (20 U.S.C. 441);

(j) Training under section 231(a) of the Manpower Development and Training Act (42 U.S.C. 2601(a)); and

(k) Attracting and qualifying teachers to meet critical teacher shortages under part B-2 of the Education Professions Development Act (20 U.S.C. 1108).

(20 U.S.C. 1221c(b)(1).)

Subpart B—State Plans

§ 100b.15 Governor's comments.

Prior to the submission to the Commissioner of any State plan, State application, or of any amendment thereto, the State agency shall afford the Governor of such State an opportunity to comment on the relationship of such State plan, application, or amendment to comprehensive and other State plans and programs. The Governor shall be afforded a period of not less than 45 days in which to make such comments. Any such comments, or, if the Governor makes no comments, a statement to that effect, shall be attached to such plan, application, or amendment when the same is submitted to the Commissioner.

(OMB Circular No. A-95.)

§ 100b.29 Budget revisions and minor deviations.

(a) *Needs of State governments.*

The State agency shall notify the Commissioner promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the State agency by more than $5,000 or 5 percent of the amount of Federal authorized funds, whichever is greater.

(OMB Circular No. A-102, attachment K, 2.)

(b) *Deviations from approved budgets.*—Expenditures of State agencies and subgrantees will not be considered ineligible for Federal financial participation solely because of minor deviations from an approved project: *Provided,* That the expenditures in question are made in connection with such project under an approved State plan (or approved State application, as the case may be), in accordance with the applicable Federal statute and regulations, and the total Federal share will not exceed the State's allotment.

(20 U.S.C. 1221c(b)(1).)

§ 100b.32 Effective dates of State plans and amendments.

(a) Federal financial participation is available only with respect to obligations incurred under an approved State plan (or State application, as the case may be), or amendments thereto. The State plan, application, or amendments thereto shall be considered to be in effect as of the date on which they are submitted to the Federal Government by the State in substantially approvable form, but in no event shall the effective date be earlier than July 1 of the fiscal year for which they are submitted. The State agency will be apprised of the effective date in the notice of approval sent to the State agency by the Commissioner.

(b) Federal funds, except funds made available expressly for the development of State plans, shall not be available for obligation with respect to binding commitments (other than those relating to personal services, utility services, travel, or the rental of equipment or facilities) entered into, or with respect to personal services, utility services, travel, or the rental of equipment or facilities rendered or performed by a State agency, prior to the effective date of the State plan (or State application, as the case may be).

(20 U.S.C. 1221c(b)(1).)

Subpart C—[Reserved]

Subpart D—Federal Financial Participation

§ 100b.52 Obligation of Federal appropriations.

The notification by the Commissioner to State agencies and Federal agencies of the amounts made available for approval or obligation by those agencies will be regarded as obligating the Government of the United States in the amounts specified. Federal appropriations so obligated will remain available for obligation as prescribed in § 100b.55.

(31 U.S.C. 200.)

§ 100b.53 Payments.

(a) *Payment methods and adjustments.*—Payments to State agencies may be made in installments, and in advance or by way of reimbursement pursuant to Subpart E of this part, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(b) *Violations.*—A payment for expenditures which fail to meet the requirements of any of the provisions of applicable Federal statutes or regulations may be taken into account in the determination of any such overpayments and any adjustments relating thereto.

(c) *Adjustment of records.*—Each State agency and subgrantee, in its maintenance of expenditure accounts, records, and reports, shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, resulting from Federal or State administrative reviews and audits or otherwise. Such adjustments shall be set forth in any financial reports required to be filed with the Commissioner.

(20 U.S.C. 1232d.)

§ 100b.55 Obligation by recipients.

(a) *Period for obligation.*—Except as otherwise provided by statute, Federal funds made available for a fiscal year shall remain available for obligation in accordance with paragraph (c) of this section during that fiscal year. Federal funds for construction of school facilities shall remain available for obligation for that purpose for a reasonable period of time as determined by the Commissioner.

(b) *Carryovers.*—In accordance with section 414(b) (20 U.S.C. 1225(b)) of the General Education Provisions Act (P.L. 90-247, title IV, as amended), any Federal funds made available, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which they were made available, shall remain available for obligation and expenditure by the recipient during such succeeding fiscal year.

(c) *Determinations of obligation.*—For the purposes of this section, an obligation of funds will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property, for the construction of facilities, or for the performance of work. However, the obligation of funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

(20 U.S.C. 1232c(b)(1).)

§ 100b.58 Tuition and fees.

Tuition and fees collected from students enrolled in courses may not be included as part of the Federal or non-Federal share of expenditures under any Federal program.

(20 U.S.C. 1221c(b)(1).)

§ 100b.59 Religious worship or instruction.

Federal funds shall not be used for the making of any payment for religious worship or instruction, or for the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(*Lemon v. Kurtzman,* 403 U.S. 602 (1971).)

Subpart E—Grant Payment Requirements

§ 100b.60 Scope of subpart.

This subpart sets forth the methods of making grant payments to State agencies. These methods will minimize the time elapsing between the disbursement by a State agency and the transfer of funds from the United States Treasury to the State agency, whether such disbursement occurs prior to or subsequent to the transfer of funds.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100b.61 Definitions.

As used in this subpart:

"Advance by Treasury check" is a payment made by a Treasury check to a State agency upon its request or through the use of predetermined payment schedules before payments are made by the State agency.

"Letter of credit" is an instrument certified by an authorized official of the Office of Education which authorizes a State agency to draw funds when needed from the Treasury, through a Federal Reserve Bank and the State agency's commercial bank, in accordance with the provisions of Treasury Circular No. 1075.

"Percentage of completion method" refers to a system under which payments are made to the recipient of a construction grant according to a schedule which relates the amount and timing of each payment primarily or solely to the actual percentage of completion of the construction work under the grant rather than to the State agency's actual rate of disbursements.

"Reimbursement by Treasury check" is a payment made to a State agency with a Treasury check upon request for reimbursement from the State agency.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100b.62 Payment methods for nonconstruction grants.

(a) Letters of credit will be used to pay State agencies when all of the following conditions exist:

(1) There is or will be a continuing relationship between the State agency and the responsible department finance office for at least a twelve-month period and the total amount of advances to be received from the finance office is $250,000 or more, as prescribed by Treasury Circular No. 1075;

(2) The State agency has established, or demonstrated to the Commissioner, the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the State agency; and

(3) The State agency's financial management system meets the standards for fund control and accountability prescribed in Subpart P of this part.

(b) Advances by Treasury check will be used, in accordance with the provisions of Treasury Circular No. 1075, when the State agency meets all of the requirements specified in paragraph (a) of this section except those in paragraph (a)(1) of this section.

(c) Reimbursement by Treasury check will be the preferred (although not mandatory) method when the State agency does not meet the requirements specified in either or both of paragraphs (a)(2) and (a)(3) of this section. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program.

(d) State agencies will be authorized to submit no less often than monthly their requests for advances or reimbursements when letters of credit or predetermined automatic Treasury check advances are not used.

(20 U.S.C. 1232d, OMB Circular No. A-102, Attachment J.)

§ 100b.63 Payment methods for construction grants.

(a) The percentage of completion method will not be used to pay construction grants.

(b) Reimbursement by Treasury check shall be the preferred method when the State agency does not meet the requirements specified in § 100b.62(a) (2) and (3), and may be used for any other construction grant except where the Commissioner has entered into an agreement with a State agency to use a letter of credit for all Federal assistance, including assistance for construction.

(c) When the reimbursement by Treasury check method is used, State agencies will be authorized to submit no less often than monthly their requests for reimbursement.

(d) When the reimbursement by Treasury check method is not used, § 100b.62 (a) and (b) shall be applicable to the construction grant. Implementing procedures under § 100b.62 (a) and (b) will be insofar as possible the same for construction grants as for nonconstruction grants awarded to the same State agency.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100b.64 Withholding of payments.

Unless otherwise required by law, payments for proper charges incurred by State agencies will not be withheld unless the grant is suspended pursuant to law, or the State agency is indebted to the United States, and collection of the indebtedness will not impair the accomplishment of the objectives of any grant program sponsored by the United States. When an indebtedness is to be collected, the Commissioner may, upon reasonable notice to the State agency, withhold from the State agency the right to receive payments under the grant or require appropriate accounting adjustments to recorded cash balances for which the State agency is accountable to the Federal Government, in order to liquidate the indebtedness.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

§ 100b.65 Requesting advances or reimbursements.

Subpart P of this part sets forth the procedures and forms for requesting advances or reimbursements.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

Subpart F—Cash Depositories

§ 100b.70 Physical segregation and eligibility.

Except as provided in § 100b.71,

(a) Physical segregation of cash depositories for Federal funds which are provided to a State agency is not required; and

(b) There will be no eligibility requirements for cash depositories in which Federal funds are deposited by State agencies or their subgrantees.

(OMB Circular No. A-102, Attachment A.)

§ 100b.71 Checks-paid basis letter of credit.

A separate bank account shall be used when payments under letter of credit are made on a "check-paid" basis in accordance with agreements entered into by a State agency, the Federal Government, and the banking institutions involved. A checks-paid basis letter of credit is one under which funds are not drawn from the Treasury until the State agency's checks have been presented to its bank for payment.

(OMB Circular No. A-102, Attachment A.)

§ 100b.72 Minority-owned banks.

Consistent with the national goal of expanding opportunities for minority business enterprises, State agencies are encouraged to use minority-owned banks.

(OMB Circular No. A-102, Attachment A.)

Subpart G—Cost Principles

§ 100b.80 Scope of subpart.

This subpart establishes the principles to be used (except to the extent inconsistent with an applicable Federal statute or regulation) in determining allowability of costs under Federal programs subject to this part, including sub-grants and cost-type contracts awarded by State agencies.

(20 U.S.C. 1221c(b)(1); OMB Circular Nos. A-21, A-87.)

§ 100b.81 State and local governments.

The principles to be used in determining the allowable costs of activities conducted or administered by State and local governments are set forth in Appendix B to this subchapter.

(OMB Circular No. A-87.)

§ 100b.82 Institutions of higher education.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by institutions of higher education are set forth in Part I of Appendix C to this subchapter.

(b) *Training and other educational services.* The principles for determining the allowable costs of training and other educational services provided by institutions of higher education are set forth in Part II of Appendix C of this subchapter.

(c) *Other activities.* Appendix C of this subchapter shall be used as a guide for determining the allowable costs of other activities conducted by institutions of higher education.

(OMB Circular No. A-21.)

§ 100b.83 Nonprofit organizations.

(a) *Nonconstruction.* The principles for determining the allowable costs of nonconstruction activities conducted by nonprofit organizations other than institutions of higher education, hospitals, States, and local governments are set forth in Appendix D to this subchapter.

(b) *Construction.* Appendix D to this subchapter shall be used as a guide for determining the allowable costs of construction by nonprofit organizations (other than institutions of higher education, hospitals, States, and local governments).

(20 U.S.C. 1221e(b)(1).)

§ 100b.84 Subgrants and cost-type contracts.

(a) It should be noted that the cost principles applicable to a subgrantee or cost-type contractor under a grant will not necessarily be the same as those applicable to the State agency. For example, where a State agencly awards a subgrant or cost-type contract to an institution of higher education, Appendix C to this subchapter would apply to the costs incurred by the institution of higher education, even though Appendix B to this subchapter would apply to the costs incurred by the State.

(b) The principles to be used in determining the allowable costs of work performed by commercial organizations under cost-type contracts awarded to them are set forth in 41 CFR Subpart 1-15.2.

(20 U.S.C. 1221e(b)(1).)

Subpart H—Matching and Cost Sharing

§ 100b.90 Purpose and scope.

This subpart sets forth criteria and procedures for the allowability and evaluation of cash and in-kind contributions in satisfying matching or cost sharing requirements applicable to State agencies.

(OMB Circular No. A-102, Attachment F.)

§ 100b.91 Definitions.

"Cash contributions" means the State agency's cash outlay, including the outlay of money contributed to the State agency by third parties. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as cash contributions of the State agency.

"In-kind contributions" represent the value of noncash contributions provided by the State agency or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and the value of goods to the federally-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the State agency's in-kind contributions.

"Matching or cost sharing" represents, in general, that portion of project costs not borne by the Federal Government.

"Project costs" means the sum of (a) the allowable costs incurred by the State agency and (b) the allowable in-kind contributions made by third parties.

(OMB Circular No. A-102, Attachment F.)

§ 100b.92 Allowability.

(a) Matching or cost sharing may consist of:

(1) Charges incurred by the State agency as project costs. Not all charges require cash outlays during the grant period by the State agency; examples are depreciation and use allowances for buildings and equipment.

(2) Project costs financed with cash contributed or donated to the State agency by third parties.

(3) Project costs represented by in-kind contributions made by non-Federal third parties. Where in-kind contributions are made by the Federal Government, they may be included in the State agency's matching or cost sharing only if Federal legislation authorizes such inclusion.

(b) All contributions whether cash or in-kind (including in-kind contributions from third parties) shall be accepted as part of the State agency's matching or cost sharing when such contributions:

(1) Are identifiable from the State agency's records,

(2) Are not included as contributions for any other federally assisted program, or any Federal contract,

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives,

(4) If made by the State agency, are types of costs which are allowable under the applicable cost principles specified in Subpart G of this part,

(5) Are not borne by the Federal Government directly or indirectly under any Federal grant or contract (unless the other grant or contract may, under authority of law, be used for matching or cost sharing), and

(6) Conform to other applicable provisions of this subpart.

(OMB Circular No. A-102, Attachment F.)

§ 100b.93 Valuation of in-kind contributions from third parties.

(a) *Valuation of volunteer services.*—(1) *General.* Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service may be counted as matching or cost sharing if it is an integral and necessary part of an approved program.

(2) *Rates for volunteer services.* Rates for volunteers should be consistent with those regular rates paid for similar work in other activities of the State agency. In cases where the kinds of skills required for the federally assisted activities are not found in the other activities of the State agency, rates used should be consistent with those paid for similar work in the labor market in which the State agency competes for the kind of services involved.

(3) *Volunteers employed by other organizations.* When an employer other than the State agency furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost): *Provided,* These services are in the same skill for which the employee is normally paid.

(b) *Valuation of donated real or tangible personal property, or use thereof*—(1) *Donation of title.* If the donor transfers title to the property, the amount to be allowed as matching or cost sharing shall be determined as if the State agency had purchased the property and had paid the fair market value of the property at the time of transfer.

(2) *Donation of use.* If only use of the property is donated, and the donor retains title, the amount to be allowed as matching or cost sharing shall be determined as if the State agency had rented the property and had paid the property's fair rental value.

(3) *Appraisal.* The Commissioner may require that the value of real property be established by an independent appraiser (i.e., a private realty firm or a General Services Administration representative) and certified by the responsible official of the State agency as a precondition to allowability for matching or cost sharing purposes.

(c) *Valuation or other in-kind contributions by third parties.* Other necessary in-kind contributions made by third parties specifically for and in direct benefit to the Federal program may be accepted as matching or cost sharing: *Provided,* That they are adequately supported and permissible under the law. Such charges must be reasonable and properly justifiable.

(OMB Circular No. A-102, Attachment F.)

§ 100b.94 Supporting records for in-kind contributions from third parties.

The following requirements pertain to the State agency's supporting records for in-kind contributions from third parties:

(a) The extent of volunteer services must be supported by the same methods used by the State agency for its employees.

(b) The basis for determining the charges for personal services, material, equipment, buildings, and land must be documented.

(OMB Circular No. A-102, Attachment F.)

Subpart I—Procurement Standards

§ 100b.100 Scope of subpart.

This subpart provides standards for use by State agencies in establishing procedures for the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part as a direct charge by the Federal Government. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal Law and Executive Orders.

(OMB Circular No. A-102, Attachment O.)

§ 100b.101 General.

(a) State agencies may use their own procurement policies provided that procurements whose cost is borne in whole or in part as a direct charge by the Federal Government adhere to the standards set forth in this subpart.

(b) The standards contained in this subpart do not relieve the State agency of the responsibilities arising under its contracts. The State agency is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(OMB Circular No. A-102, Attachment O.)

§ 100b.102 Code of conduct.

The State agency shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal funds. The State agency's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State or local law, rules or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards either by the State agency's officers, employees, or agents, or by contractors or their agents.

(OMB Circular No. A-102, Attachment O.)

§ 100b.103 Free competition.

All procurement transactions of the State agency, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The State agency should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(OMB Circular No. A-102, Attachment O.)

§ 100b.104 Procedural requirements.

The State agency shall establish procurement procedures which provide for, as a minimum, the following:

(a) Proposed procurement actions shall be reviewed by appropriate officials of the State agency to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement and, when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(c) Positive efforts shall be made by the State agency to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed under Federal grants.

(d) The type of procuring instruments used (i.e., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.) shall be appropriate for the particular procurement and for promoting the purposes of the Federal program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to § 100b.105 is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. When formal advertising is employed:

(1) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State agency, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State agency.

(3) Any or all bids may be rejected when it is in the State agency's interest to do so, and such rejections are in accordance with applicable State or local law, rules, and regulations.

(OMB Circular No. A-102, Attachment O.)

§ 100b.105 Negotiated procurements.

(a) Procurements may be negotiated by the State agency if it is not practicable or feasible to use formal advertising. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising;

(2) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the Commissioner for prior approval;

(3) The aggregate amount involved does not exceed $2,500;

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(5) The material or services are to be procured and used outside the limits of the United States and its possessions;

(6) No acceptable bids have been received after formal advertising;

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and inter-changeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(8) Negotiation is otherwise authorized by applicable Federal, State, or local law, rules or regulations.

(b) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(OMB Circular No. A-102, Attachment O.)

§ 100b.106 Contractor responsibility.

Contracts shall be made by State agencies only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and teechnical resources, and accessibility to other necessary resources.

(OMB Circular No. A-102, Attachment O.)

§ 100b.107 Records for negotiated procurements by State agencies.

The procurement records or files of State agencies for negotiated purchases in amounts in excess of $2,500 shall include the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated. Justification for the use of negotiation in lieu of advertising may be provided on a class basis or on an individual contract basis.

(OMB Circular No. A-102, Attachment O.)

§ 100b.108 Contract administration system.

A system for contract administration shall be maintained by the State agency to assure contractor compliance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

(OMB Circular No. A-102, Attachment O.)

§ 100b.109 Contract and subgrant provisions.

(a) *General.* (1) The State agency shall include provisions to define a sound and complete agreement in all contracts and subgrants which it awards when the contract or subgrant costs are to be borne as a direct charge in whole or in part by Federal funds.

(2) In awarding contracts, the State agency must comply with the applicable requirements of paragraphs (b) and (c) of this section.

(3) In awarding subgrants, the State agency must comply with the applicable requirements of paragraph (c) of this section.

(b) *Contracts under grants.* (1) The State agency's contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts awarded by State agencies in excess of $2,500 shall contain suitable provisions for termination by the State agency including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement awarded in excess of $100,000, the bonding requirements set forth in Subpart J of this part shall be observed.

(4) All negotiated contracts (except those of $2,500 or less) shall include provisions giving access to, and requiring retention of, the contractor's records in accordance with § 100b.477.

(c) *Subgrants*. (1) Provisions for compliance with Executive Order No. 11246, entitled, "Equal Employment Opportunity," as implemented in Department of Labor regulations (41 CFR Part 60) shall be included in all subgrants to which they are applicable.

(2) All subgrants in excess of $2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as implemented in Department of Labor regulations (29 CFR Part 3). The State agency shall report all suspected or reported violations to the Commissioner.

(3) All research or development agreements, whether contracts or subgrants, shall contain a notice to the effect that rights to inventions conceived or first actually reduced to practice in the course of or under the agreement shall be governed by the Department's Patent Regulations (Parts 6 and 8 of this title), implementing terms and conditions of the grant, and any pertinent regulations or other requirements consistent therewith issued by the State agency. The State agency shall assure that the performer of the research or development work either is given all necessary information regarding these matters, or is advised as to the source of such information. This subparagraph shall also apply to nonresearch and nondevelopment awards in fields of science or technology in which there has been little significant experience outside of work funded by the Federal Government.

(4) Each contract of an amount in excess of $2,500 awarded by a State agency or subgrantee shall provide that the contractor will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the contractor that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the State agency or subgrantee shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Suspected violations shall be reported by the State agency in writing to the local Internal Revenue Service field office with a copy to the Commissioner.

(5) Contracts and subgrants in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. 1857b, et seq.). Suspected violations shall be reported by the State agency in writing to the regional office of the United States Environmental Protection Agency, with a copy to the Commissioner.

(OMB Circular No. A-102, Attachment O.)

Subpart J—Bonding and Insurance

§ 100b.120 General.

State agencies shall observe their regular requirements and practices with respect to bonding and insurance. No additional bonding and insurance requirements will be imposed, including fidelity bonds, except as provided in §§ 100b.121 and 100b.122.

(OMB Circular No. A-102, Attachment B.)

§ 100b.121 Construction and facility improvement.

A State agency which receives a grant which requires contracting for construction or facility improvement (including any grant which provides for alterations or renovations of real property) shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

(a) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(b) *A performance bond on the part of the contractor for 100 percent of the contract price.* A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(c) *A payment bond on the part of the contractor for 100 percent of the contract price.* A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(OMB Circular No. A-102, Attachment B.)

§ 100b.122 Loan guarantees.

Where in connection with a grant, the Commissioner also guarantees the payment of money borrowed by the State agency, the Commissioner may, at his discretion, require adequate bonding and insurance if the bonding and insurance requirements of the State agency are not deemed to be sufficient to protect adequately the interests of the Federal Government.

(OMB Circular No. A-102, Attachment B.)

Subpart K—Construction Requirements

§ 100b.155 Scope.

The provisions contained in this subpart apply to recipients of Federal financial assistance for construction under Federal programs under which construction is authorized by law.

(20 U.S.C. 1221c(b)(1).)

§ 100b.156 Definition.

For the purposes of this subpart, the term "facilities" means one or more structures in one or more locations, constructed pursuant to this subpart.

(20 U.S.C. 1221c(b)(1).)

§ 100b.157 Manner of construction.

Construction must be functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials in comparison with facilities of a similar type constructed in the State (or other applicable geographic area) within such period as may be designated by the State agency as appropriate for the purposes of this section.

(20 U.S.C. 1221c(b)(1).)

§ 100b.158 Timeliness of work.

The recipient shall cause work on the project to be commenced within a reasonable time after receipt of notification from the State agency that funds have been awarded, and the project shall be prosecuted to completion with reasonable diligence.

(20 U.S.C. 1232c(b)(1).)

§ 100b.159 Commencement of construction.

(a) Approval by the State agency of the final working drawings and specifications shall be obtained before the proposed construction is advertised or placed on the market for bidding.

(b) The construction shall go to final completion in accordance with the application and approved drawings and specifications.

(c) The recipient shall submit to the State agency for prior approval changes that materially alter the scope or costs of the project, use of space, or functional layout.

(20 U.S.C. 1221c(b)(1).)

§ 100b.160 Civil rights assurance.

If an assurance of compliance with title VI of the Civil Rights Act of 1964 (Form HEW 441) applying to the facility described in the application has not been filed, such an assurance shall be attached to the application.

(42 U.S.C. 2000d.)

§ 100b.161 Title to site.

The recipient shall have, or shall obtain, a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the useful life of the facilities, or 50 years, whichever is the greater.

(OMB Circular No. A-102, Attachment N.)

§ 100b.164 Contracting.

(a) Except as otherwise provided by State or local law, all contracting for construction (including the purchase and installation of built-in equipment) shall be on a lump-sum fixed-price basis, and, except as provided in paragraph (b) of this section, contracts shall be awarded pursuant to Subpart I of this part on the basis of competitive bidding with award of the contract to the lowest responsive and responsible bidder.

(b) If one or more items of construction are covered by an established alternative procedure for awarding contracts, consistent with State and local laws and regulations, which is approved by the Commissioner and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed.

§ 100b.168 Reports.

The recipient shall furnish such progress reports and such other information relating to the proposed construction and the project as the State agency may require.

(20 U.S.C. 1232c(b)(3).)

§ 100b.169 Federal access to records and work.

Representatives of the Federal Government shall have access at all reasonable times to the recipient's records and to work whenever it is in preparation or progress, and the contractor shall be required under the contract to provide proper facilities for such access and inspection.

(20 U.S.C. 1232c(a)(2).)

§ 100b.170 Operation and maintenance.

The facility shall be operated and maintained in accordance with the requirements of applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

(20 U.S.C. 1221c(b)(1).)

§ 100b.171 Cost-sharing and operational funds.

Sufficient funds shall be available to meet the non-Federal share of the cost of constructing the facility (where applicable), and sufficient funds shall be available when construction is completed to assure effective operation and maintenance of the facility for the purposes for which constructed.

(20 U.S.C. 1221c(b)(1).)

§ 100b.172 Supervision and inspection.

The recipient shall provide and maintain competent and adequate architectural and engineering supervision and inspection at the construction site to insure that the completed work conforms to the approved drawings and specifications.

(20 U.S.C. 1232c(b)(1).)

§ 100b.173 Cultural activities.

Reasonable provision shall be made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities.

(20 U.S.C. 1221c(b)(1).)

§ 100b.184 Safety and health.

In planning for and designing facilities, the recipient shall observe nationally recognized safety and health standards and codes, including National Fire Protection Association standards and those adopted under the Occupational Safety and Health Act of 1970 (Public Law 91-576): *Provided, however*, That to the extent that State and local codes are more stringent, they shall apply.

(29 U.S.C. 651.)

§ 100b.185 Environmental impact.

Each applicant shall provide the Department Regional Office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)

§ 100b.186 Preservation of historic sites.

Each application for Federal financial assistance for construction shall describe the relationship to and the probable effect, or lack of effect, on any district, site, building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service and published with periodical updatings in the FEDERAL REGISTER. Such information is to be furnished to the Department by the State agency to enable it to take into account such an effect and to consider the comments thereon of the Advisory Council on Historic Preservation, prior to providing such Federal financial assistance, as required by section 106 of Public Law 89-665.

(16 U.S.C. 470f.)

§ 100b.187 Davis-Bacon, Copeland, and Contract Work Hours Standards Act.

Except as otherwise provided by law, all laborers and mechanics employed by contractors and subcontractors on construction assisted under Federal programs, including minor remodeling, shall be paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act. Such contractors and subcontractors shall comply with the provisions of 29 CFR part 3 ("anti-kickback" regulations); and all construction contracts and subcontracts shall incorporate the contract clauses required by 29 CFR 5.5 (a) and (c).

(20 U.S.C. 1232b; 40 U.S.C. 276a, 276c, 327-332.)

§ 100b.188 Nondiscrimination.

Construction contracts shall include the applicable provisions of Executive Order No. 11246, as amended by Executive Order No. 11375 (nondiscrimination in construction contract employment), and the applicant shall otherwise comply with the requirements of section 301 of said Executive order.

(E.O. Nos. 11246, 11375.)

§ 100b.189 Access by the handicapped.

The recipient shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards prescribed by the Secretary or the U.S. Administrator of General Services (41 CFR 101-17.703). The applicant shall be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(42 U.S.C. 4151, 4152, 4155.)

§ 100b.190 Avoidance of flood hazards.

In the planning of the construction of facilities involving the use of Federal funds, the recipient shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 FR 10663) and such rules and regulations as may be issued by the Secretary to carry out those provisions, evaluate flood hazards in connection with such facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(E.O. No. 11296.)

§ 100b.191 Relocation assistance.

Projects receiving Federal financial assistance are subject to the regulations on relocation assistance and real property acquisition policies contained in part 15 of this title.

(20 U.S.C. 1221c(b)(1).)

§ 100b.192 Water pollution.

The recipient shall comply with Executive Order No. 11288 of July 7, 1966 (31 FR 9261), "Prevention, Control and Abatement of Water Pollution." (E.O. No. 11288)

Subpart L—Property Management Requirements

§ 100b.209 Scope of subpart.

This subpart prescribes policies and procedures governing title, use, and disposition of real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge by Federal grants or subgrants and ownership and rights for intangible personal property developed under Federal grants and subgrants.

(OMB Circular No. A-102, Attachment N.)

§ 100b.210 General.

Recipients may follow their own property management policies and procedures: *Provided*, They observe the requirements of this subpart.

(OMB Circular No. A-102, Attachment N.)

§ 100b.211 Definitions.

As used in this subpart:

"Acquisition cost" of nonexpendable personal property acquired by purchase means the net invoice price of the property, including any attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Auxiliary charges such as taxes, duty, protective in-transit insurance, freight, or installation shall be included in or excluded from acquisition cost in accordance with the recipient's regular accounting practices.

"Real property" means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(OMB Circular No. A-102, Attachment N.)

§ 100b.212 Real property.

Title to real property whose acquisition cost was borne in whole or in part by Federal funds shall vest in the recipient upon acquisition. In the absence of applicable statutory provisions governing the use or disposition of such property, it shall be subject to the following requirements, in addition to (and subject to) any other requirements imposed by the Statute or regulation:

(a) The recipient shall use the real property for the purposes authorized by the original grant or subgrant as long as needed.

(b) The State agency may authorize the recipient to use the property for the following (but no other) purposes when the recipient determines that the property is no longer needed for the orginally authorized purposes:

(1) Activities sponsored by other Federal awards (regardless of which Federal agency makes the other awards), or

(2) Activities not sponsored by other Federal awards, but which, nevertheless, have purposes consistent with those of the legislation under which the original award was made.

(c)(1) When no longer used in accordance with paragraphs (a) and (b) of this section the recipient shall return to the control of the Commissioner all real property whose acquisition cost was borne wholly by Federal funds. If the acquisition cost of the property was borne partly by Federal funds, the recipient may be relieved of accountability to the Federal Government with respect to the Federal interest in the property by compensating the Federal Government for its fair share of the current value of the property, or if the grantee no longer needs the property, by selling it and compensating the Federal Government for its fair share of the sales proceeds.

(2) The amount of compensation to the Federal Government under subparagraph (1) of this paragraph shall be computed by applying the percentage of Federal participation in the cost of the project or program for which the property was acquired to the property's current fair market value (if the recipient retains the property) or to the proceeds from sale (if the recipient sells the property). In most cases, the real property will have been acquired under an award whose purpose was to assist the recipient in acquiring the property. In such cases, the "total cost of the project or program for which the property was acquired" will ordinarily be the same as the acquisition cost of the property.

(OMB Circular No. A-102, Attachment N.)

§ 100b.215 Nonexpendable personal property.

(a) *Title.*—When nonexpendable personal property is acquired by a recipient wholly or in part with Federal funds, title shall be vested in the recipient.

(b) *Use.*—(1) The recipient shall retain such property in the project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for such property to accomplish the purpose of the project, the recipient shall use the property in connection with other Federal awards it has received in the following order or priority:

(i) Other awards under Federal programs administered by the Commissioner needing the property.

(ii) Awards of other Federal agencies needing the property.

(3) When the recipient no longer has need for such property in any of its federally assisted projects, the property may be used for the recipient's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used 4 years or more, the recipient may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) For all of such property not covered under subparagraph (3)(i) of this paragraph, the recipient may retain the property for its own use provided that a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the cost of the project to the current fair market value of the property.

(c) *Disposition.*—If the recipient has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section) the recipient shall sell the property and reimburse the Federal Government in accordance with subparagraph (2)(iii) of this paragraph.

(2) If the property had an acquisition cost of over $1,000 per unit, the recipient shall request disposition instructions from the State agency. The State agency will issue instructions to the recipient within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the recipient is instructed to ship the property elsewhere, the recipient will be reimbursed by the State agency with an amount which is computed by applying the percentage of the recipient's participation in the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the recipient is instructed to otherwise dispose of the property, the recipent will be reimbursed by the State agency for the costs incurred in such disposition.

(iii) If disposition instructions are not issued within the 120-day period specified in subparagraph (2) of this paragraph, the recipient shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the project to the sales proceeds. The recipient may, however, deduct and retain from that amount $100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(d) *Property management standards.*—Recipients' property management standards for nonexpendable personal property shall also include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for: (i) A description of the property; (ii) manufacturer's serial number or other identification number; (iii) acquisition date and cost; (iv) source of the property; (v) percentage of Federal funds used in the purchase of the property; (vi) location, use, and condition of the property; and (vii) ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. The recipient shall be responsible for replacing or repairing (with funds of such recipient) property which is lost, damaged, or destroyed due to the negligence of the recipient.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(OMB Circular No. A-102, attachment N.)

§ 100b.216 Expendable personal property.

(a) The recipient may at its option either retain or sell items of expendable personal property when no longer needed for any federally sponsored activity (including activities sponsored by other agencies).

(b) Compensation to the Federal Goverment is required if the aggregate fair market value of all of those items acquired with Federal assistance exceeds $500 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project to the current fair market value of items retained, and to the sales proceeds of items sold.

(OMB Circular No. A-102, attachment N.)

§ 100b.217 Intangible personal property.

(a)(1) All inventions conceived or first actually reduced to practice in the course of or under a federally assisted project are subject to Parts 6 and 8 of this title. Each invention shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare.

(2) Determination as to ownership and disposition of rights to such inventions, including whether a patent application shall be filed, and, if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may issue shall be made either:

(i) By the Federal Government, or

(ii) Where the recipient has a separate formal institutional patent agreement with the Department, by the recipient in accordance with that agreement.

(b) Where the project results in a book or other copyrightable material, the author or recipient is free to copyright the work, but the Commissioner reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(OMB Circular No. A-102, attachment N.)

§ 100b.218 Publications.

Any publication or presentation resulting from or primarily related to Federal financial assistance shall contain the following acknowledgement:

> The activity which is the subject of this report was supported in whole or in part by the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

(20 U.S.C. 1221c(b)(1).)

§ 100b.220 Determining percentage of participation.

(a) Various provisions in this subpart require a determination of the percentage of Federal (or recipient) participation in the cost of the project or program in order to compute the amount of compensation for the value, or proceeds from sale, of property. In determining the applicable percentage, there shall first be deducted from the allowable costs incurred during the grant period, any royalties or other income (not including interest income or proceeds from sale of property) earned by the federally supported project or program during the grant period.

(b) The deduction of income required by paragraph (a) of this section is independent of, and is not intended to control, the disposition of such income pursuant to Subpart M of this part.

(OMB Circular No. A-102, Attachment N.)

Subpart M—Program Income

§ 100b.230 Scope of subpart.

This subpart sets forth standards for recipients in accounting for program income and other income related to projects and programs financed in whole or in part with Federal funds.

(OMB Circular A-102, Attachment E.)

§ 100b.231 Meaning of program income.

As used in this subpart, the term "program income" shall have the meaning set forth for that term in § 100b.401.

(OMB Circular No. A-102, Attachment E.)

§ 100b.232 Interest income.

(a) As used in paragraph (b) of this section:

(1) The term "State" shall have the meaning set forth in section 102 of the Intergovernmental Cooperation Act of 1968.

(2) The term "grant-in-aid" shall have the meaning set forth for that term in Section 106 of the Intergovernmental Cooperation Act of 1968.

(b) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968, States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes.

(c) In all other cases, recipient shall remit to the Federal Government any interest earned on advances of Federal funds.

(Pub. L. 90-577, secs. 102, 106, 203; OMB Circular No. A-102, Attachment E.)

§ 100b.233 Sale of real and personal property.

Proceeds from the sale of real and tangible personal property whose acquisition cost was borne in whole or in part by Federal funds shall be handled in accordance with Subpart L of this part.

(OMB Circular No. A-102, Attachment N.)

§ 100b.234 Royalties.

(a) *Applicability*—(1) *Copyrights*. This section applies to royalties received by recipients from copyrights on publications or other works developed under a federally-assisted project.

(2) *Patents*. This section also applies to royalties received by recipients from patents on inventions conceived or first actually reduced to practice in the course of or under federally-assisted projects.

(b) *During the grant period*—(1) Royalties received during the grant period shall be retained by the recipient. The terms and conditions of the subgrant shall provide either:

(i) That such royalties shall be used by the recipient for any purposes which further the objectives of the legislation under which the subgrant was made, or

(ii) That such royalties shall be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(2) The recipient shall elect either of the alternatives specified in subparagraph (1) of this paragraph if the terms and conditions of the subgrant do not specify which is to be followed.

(c) *After the grant period*—(1) *Copyrights*. The Federal share of copyright royalties in excess of $200 received annually shall be paid by the recipient to the Federal Government. The Federal share of the royalties shall be computed on the same ratio basis as the percentage of Federal participation in the cost of the project or program. This percentage of participation shall be determined in accordance with § 100b.220.

(2) *Patents*. Disposition of patent royalties received after the termination or completion of the period for obligation shall be governed by the regulations contained in Parts 6 and 8 of this title.

(OMB Circular No. A-102, Attachment E.)

§ 100b.235 Other program income.

(a) This section applies to all program income earned during the period for obligation except royalties and proceeds from the sale of real property or tangible personal property.

(b) All such income earned during the period for obligation shall be retained by the recipient. The recipient may elect either of the following alternatives to satisfy its accountability to the Federal Government for the income:

(1) The income may be used by the recipient for purposes which further the objections of the legislation under which the award was made, or

(2) The income may be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(OMB Circular No. A-102, Attachment E.)

§ 100b.236 Earmarked revenues.

State agencies shall record the receipt and expenditure of revenues such as taxes, special assessments, levies, fines, etc., as a part of grant project transactions when such revenues are specifically earmarked for a project in accordance with a State plan (or State application).

(OMB Circular No. A-102, Attachment E.)

Subpart N—Miscellaneous Requirements

§ 100b.250 Financial interest prohibited.

A person who is a public official, officer, or member of, or who is otherwise associated with a recipient may not participate in an administrative decision with respect to a project if such decision can be expected to result in any benefit or remuneration, including, without limitation, a royalty, commission, contingent fee, brokerage fee, or other benefit, to him or to any member of his immediate family.

(20 U.S.C. 1232c(b)(1).)

§ 100b.254 Transfer of funds to subgrantees.

(a) State agencies shall establish policies and procedures to be used in the payment of funds to subgrantees (where applicable) pursuant to an approved project either: (1) As a reimbursement for actual expenditures or (2) as an advance prior to expenditures.

(b) Advances shall not be eligible for inclusion as expenditures for the purposes of earning Federal financial participation until adequate evidence of actual expenditures for approved projects has been received and verified by the State agency.

(c) Reimbursement or payment need not be uniform to all recipients, and the State agency may provide a method by which the ratio of reimbursement to expenditures in particular cases may be adjusted on the basis of comparative needs of individual recipients.

(20 U.S.C. 1232c(b)(1).)

§ 100b.257 Custody of funds.

The State agency shall provide for the receipt by the State treasurer (or, if there is no State treasurer, the officer identified by title exercising similar functions for the State) and for the proper safeguarding of all Federal funds granted to the State. The State agency shall pro-
member of his immediate family.
fee, or other benefit, to him or to any
vide that all Federal funds so received shall be expended solely for the purposes for which granted.

(20 U.S.C. 1232c(b)(2).)

§ 100b.258 Leasing facilities.

In the case of the lease of a facility, the State agency or other recipient shall have the right to occupy, and to operate, and if necessary to maintain and improve, the premises to be leased during the proposed period of the project.

(20 U.S.C. 1221c(b)(1).)

§ 100b.262 Civil rights.

(a) Federal financial assistance is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Pub. L. 88-352).

(42 U.S.C. 2000d.)

(b) Federal financial assistance is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Pub. L. 92-318, title IX.)

§ 100b.274 Application of State rules.

Subject to the provisions and limitations of applicable Federal statutes and regulations, Federal financial participation shall be available only for expenditures made in accordance with applicable State and local laws, rules, regulations, and standards governing expenditures.

(20 U.S.C. 1221(b)(1).)

§ 100b.275 Coordination.

Each project (and each State plan) shall be developed so as to be in coordination with other public and private programs for similar educational purposes. Such coordination shall be continuous during the period in which such project or plan remains in effect.

(20 U.S.C. 1232c(b)(1).)

Subpart O—Financial Management Systems

§ 100b.300 Scope of subpart.

This subpart prescribes standards for financial management systems of Federally supported activities conducted by State agencies and their subgrantees.

(OMB Circular No. A-102, Attachment G.)

§ 100b.301 Standards.

State agency financial management systems for grants and subgrantee financial management systems for subgrants shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant in accordance with Subpart P of this part, and for each subgrant in accordance with the State agency's requirements. Except when specifically required by law, the Commissioner will not require financial reporting on the accrual basis from organizations whose records are not maintained on that basis. However, when accrual reporting is required by law, organizations whose records are not maintained on that basis will not be required to convert their accounting systems to the accrual basis; they may develop the accrual information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant- or subgrant-supported activities. These records shall contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all grant or subgrant funds, and real and personal property acquired with grant or subgrant funds. Grantees and subgrantees shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant or subgrant, and when specifically required by the performance or productivity data, including the production of unit cost information.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the State agency, whenever cash is advanced by the Federal Government. When advances are made by a letter-of-credit method, the State agency shall make drawdowns from the U.S. Treasury through its commercial bank as close as possible to the time of making the disbursements. Subgrantees shall institute analogous procedures when funds are advanced by the State agency.

(f) Procedures for determining the allowability and allocability of costs in accordance with the applicable cost principles prescribed by Subpart G of this part.

(g) Accounting records which are supported by source documentation.

(h) Audits to be made by the State agency or subgrantee or at its direction to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. The grantee or subgrantee will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(OMB Circular No. A-102, Attachment G.)

§ 100b.302 Subgrantees.

The standards of § 100b.301, insofar as they apply to subgrantees, shall be included in the terms and conditions of subgrants by State agencies.

(OMB Circular No. A-102, Attachment G.)

Subpart P—Financial Reporting Requirements

§ 100b.400 Scope of subpart.

This subpart prescribes requirements for State agencies to report financial information to the Commissioner and to request advances and reimbursements when a letter-of-credit method is not used, and promulgates standard forms incident thereto.

(OMB Circular No. A-102, Attachment H.)

§ 100b.401 Definitions.

As used in this subpart and in the forms identified by this subpart:

"Accrued expenditures" are the charges incurred by the State agency during a given period requiring the provision of funds for: (a) goods and other tangible property received; (b) services performed by employees, contractors, subgrantees, and other payees; and (c) amounts becoming owed under programs for which no current services or performance are required.

"Accrued income" is the earnings during a given period which is a source of funds resulting from (a) services performed by the State agency, (b) goods and other tangible property delivered to purchasers, and (c) amounts becoming owed to the State agency for which no current services or performance are required by the State agency.

"Disbursements" are payments in cash or by check.

"Federal funds authorized" represents the total amount of the Federal funds authorized for obligations and establishes the ceiling for obligation of Federal funds. This amount may include any authorized carryover of unobligated funds from prior fiscal years.

"In-kind contributions" represent the value of noncash contributions provided by the State agency or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and value of goods and services directly benefiting and specifically identifiable to the federally-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the State agency's in-kind contributions.

"Obligations" are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

"Outlays" represent charges made to the grant project or program. Outlays may be reported on a cash or accrued expenditure basis.

"Program income" represents earnings by the recipient realized from the federally-supported activities as a result of the grant. Such earnings exclude interest income and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, sale of assets purchased with grant funds, and royalties on patents and copyrights. Program income may be reported on a cash or accrued income basis.

"Unobligated balance" is the portion of the funds authorized by the Commissioner which has not been obligated by the State agency and is determined by deducting the cumulative obligations from the funds authorized.

"Unpaid obligations" represent the amount of obligations incurred by the State agency which have not been paid.

(OMB Circular No. A-102, Attachment H.)

§ 100b.402 Authorized forms and instructions.

(a) Only those forms specified in §§ 100b.403 through 100b.406, inclusive, and such supplementary or other forms as may from time to time be authorized by the Commissioner may be used:

(1) For obtaining financial information from State agencies for federally-assisted programs, or

(2) For requesting advances or reimbursements when letters of credit are not used.

(b) All applicable standard instructions promulgated for use in connection with the forms specified in §§ 100b.403 through 100b.406, inclusive, shall be followed.

(c) State agencies shall submit the original and two copies of forms required pursuant to this subpart. However, the Commissioner may waive the requirement for the second copy, or both copies, when not needed.

(d) The forms (with their instructions) specified in §§ 100b.403 through 100b.406, inclusive, will be available to the public upon request to the Commissioner.

(OMB Circular No. A-102, Attachment H.)

§ 100b.403 Financial status report.

(a) *Form.* State agencies shall use the standard Financial Status Report prescribed by Attachment H of OMB Circular No. A-102 to report the status of funds for all non-construction grant programs. The Commissioner may choose not to require the Financial Status Report when the Request for Advance or Reimbursement (see § 100b.405) is determined to provide adequate information to meet his needs, except that a final Financial Status Report is required at the completion of the grant when the Request for Advance or Reimbursement form is used only for advances.

(b) *Accounting basis.* Each State agency shall report outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which it used in maintaining its accounting records. The basis used by a State agency must be consistent for all grants.

(c) *Frequency.* For research project grants, reports shall be submitted annually, and a final report shall be submitted upon completion or termination of Federal support. For all other types of grants, the Commissioner will prescribe the frequency of the report, considering the size and complexity of the particular program. However, the report will not be required more frequently than quarterly or less frequently than annually, and a final report is required upon completion or termination of Federal support.

(d) *Due date.* When reports are required on a quarterly or semi-annual basis, they shall be due thirty days after the end of the specified reporting period. When required on an annual basis, they shall be due ninety days after the end of the grant year. Final reports shall be due ninety days after the completion or termination of Federal support. Justified requests from individual State agencies for extension of reporting due dates will be approved whenever feasible.

(OMB Circular No. A-102, Attachment H.)

§ 100b.404 Report of Federal cash transactions.

(a) *Form.* When funds are advanced to State agencies through letters of credit or with Treasury checks, each State agency shall submit the Report of Federal Cash Transactions prescribed by Attachment H of OMB Circular No. A-102 (HEW Forms 602T, 603T). This report will be used to monitor cash advanced to State agencies and to obtain disbursement or outlay information for each project from the State agencies. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment, provided that the information to be submitted is not changed.

(b) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(c) *Cash in hands of secondary recipients.* When deemed necessary and feasible by the Commissioner, State agencies may be required to report in the "Remarks" section of the report the amount of cash advances in excess of three days' requirements in the hands of subgrantees or other secondary recipients, and to provide short narrative explanations of actions taken by the State agencies to reduce the excess balances.

(d) *Frequency and due date.* State agencies shall submit the Report of Federal Cash Transactions no later than fifteen working days following the end of each quarter. However, where a letter of credit authorizes advances at an annualized rate of one million dollars or more, the Commissioner may require the reports to be submitted within fifteen working days following the end of each month.

(e) *Waiver.* The Commissioner may waive the requirement for submission of the Report of Federal Cash Transactions when a State agency's monthly advances do not exceed $10,000: *Provided,* That such advances are monitored through other forms authorized pursuant to this subpart, or the State agency's accounting controls are adequate to minimize excessive Federal advances.

(OMB Circular No. A-102, Attachment H.)

§ 100b.405 Request for advance or reimbursement.

(a) State agencies shall submit their requests for advance payments or reimbursements under nonconstruction grants, and their requests for advance payments under construction grants, on the Request for Advance or Reimbursement form prescribed by Attachment H of OMB Circular No. A-102 (HEW Form 604T) when letters of credit or predetermined automatic Treasury check advance methods are not used. Additionally, the Commissioner may prescribe this form for construction grants in lieu of the Outlay Report and Request for Reimbursement for Construction Programs as specified in § 100b.406.

(b) State agencies will be authorized to submit no less often than monthly their requests for advances or reimbursement when letters of credit or predetermined automatic Treasury check advance methods are not used.

(OMB Circular No. A-102, Attachment H.)

§ 100b.406 Outlay report and request for reimbursement for construction programs.

(a) *Construction grants paid by reimbursement method.* (1) Requests for reimbursement under construction grants shall be submitted on the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A-102. The Commissioner may, however, substitute the Request for Advance or Reimbursement form specified in § 100b.405 in lieu of this form when he determines that the former provides adequate information to meet his needs.

(2) State agencies will be authorized to submit no less often than monthly their requests for reimbursement under construction grants.

(b) *Construction grants paid by letter of credit or Treasury check advances.* (1) When a construction grant is paid by letter of credit or Treasury check advances, the State agency shall report its outlays to the Commissioner using the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A–102. In these cases, the State agency should leave blank those items on the form which are applicable only when requesting reimbursement, i.e., items 3, 5, 10, 11t, 11u, and 11v.

(2) In lieu of the certification and signatures in items 12, 12a, and 12b, the following certification, signed on behalf of the State agency by an authorized official of the State agency, shall be submitted to the Commissioner with the outlay report:

> I certify that to the best of my knowledge and belief the accompanying report is correct and complete and that all outlays reported therein are for the purposes set forth in the Federal authorizing legislation.

Information as to percentage of project completion and certification thereof by the Government representative shall be submitted independently of the outlay report, at such times and by such means as may be prescribed by the Commissioner.

(3) Frequency and due date of the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 100b.403 (c) and (d).

(c) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 100b.403 (b).

(d) *Alternative forms.* For construction grants paid by the reimbursement method, or by Treasury check advances based on periodic requests from the State agency, the Commissioner may substitute the Request for Advance or Reimbursement specified in § 100b.405 in lieu of the Outlay Report and Request for Reimbursement for Construction Programs. When any other payment method is used, the Commissioner may substitute the Financial Status Report specified in § 100b.403.

(OMB Circular No. A–102, Attachment H.)

§ 100b.407 Requests for supplementary Treasury checks.

When the drawing authority for a specified period under a letter of credit is insufficient, the State agency may request a supplementary Treasury check payment by letter.

(OMB Circular No. A–102, Attachment H.)

Subpart Q—Monitoring and Reporting of Program Performance

§ 100b.430 Scope of subpart.

This subpart sets forth the procedures for monitoring and reporting program performance. These procedures are designed to place greater reliance on State agencies to manage the day-to-day operations of their federally-supported activities.

(OMB Circular No. A–102, Attachment I.)

§ 100b.431 Monitoring by State agencies.

State agencies shall constantly monitor performance under federally-supported activities to assure that adequate progress is being made towards achieving the goals of the grant. This review shall be made for each function or activity of each grant as set forth in the approved State plan or application.

(OMB Circular No. A–102, Attachment I.)

§ 100b.432 Performance reports for nonconstruction grants.

(a) Where the Commissioner determines that performance information sufficient to meet his programmatic needs will be available from continuation or renewal applications, the Commissioner will require the State agency to submit a performance report only with the final Financial Status Report (or other financial report equivalent thereto). Note that the "Application for Federal Assistance (Nonconstruction Programs)" prescribed by Subpart C of this part, when used to request a continuation or renewal, provides information substantially equivalent to a performance report.

(b) Except as provided in paragraph (a) of this section, State agencies shall submit a performance report with each Financial Status Report (or other financial report equivalent thereto) in the frequency established by Subpart P of this part. The Commissioner will prescribe the frequency with which performance reports will be submitted with the Request for Advance or Reimbursement when that form is used in lieu of the Financial Status Report; in such cases, performance reports will not be required more frequently than quarterly, or less frequently than annually.

(c) Performance reports shall include, to the extent appropriate to the particular grant, a brief presentation of the following for each function or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of projects can be readily quantified, such quantitative data shall be related to cost data for computation of unit costs.

(2) Reasons for slippage in those cases where established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(OMB Circular No. A–102, Attachment I.)

§ 100b.433 Performance reports for construction grants.

In general, the Commissioner will rely heavily on on-site technical inspection and certified percentage-of-completion data to keep himself informed as to progress under construction grants. Therefore, formal performance reports from State agencies to supplement those sources of information will be required only if deemed necessary by the Commissioner and in no case more frequently than quarterly.

(OMB Circular No. A–102, Attachment I.)

§ 100b.434 Significant developments between scheduled reporting dates.

Between the scheduled performance reporting dates, events may occur which have significant impact upon the federally-supported activity. In such cases, the State agency shall inform the Commissioner as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to attain the objectives of the grant. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(b) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

(OMB Circular No. A–102, Attachment I.)

§ 100b.436 Site visits.

Site visits will be made by representatives of the Department or the Commissioner as frequently as practicable to:

(a) Review program accomplishments and management control systems, and

(b) Provide such technical assistance as may be required.

(OMB Circular No. A–102, Attachment I.)

Subpart R—Accountability for Federal Funds

§ 100b.477 Retention of records.

(a) *Records.*—Each State agency and other recipient shall keep intact and accessible all records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any) in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.* (1) Except as provided in paragraphs (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of submission of the annual expenditure report to the State agency.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.*—Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.*—The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions: *Provided, however,* That records need not be retained if they relate to a grant or contract with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitations in 28 U.S.C. 2415(b).

(e) *Audit and examination.*—(1) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to the records specified in paragraph (a) of this section and to any other pertinent books, documents, papers, and records of the recipient.

(2) In the case of a subgrant (or negotiated contract exceeding $2,500) the State agency, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the subgrantee (or the contractor) which the State agency, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives determine are pertinent to the specific grant, for the purpose of making audit, examination, excerpts, and transcripts.

(f) *Records for indirect cost rate proposals, etc.*—(1) *Applicability.* This paragraph applies to records supporting (i) indirect cost rate proposals, (ii) cost allocation plans of State and local governments pursuant to Appendix B to the subchapter, (iii) hospital patient care rate proposals, and (iv) any similar accounting computations of the rate at which a particular group of costs is chargeable to a grant. Examples of the latter are computer usage chargeback rate computations and composite fringe benefit rate computations.

(2) *If submitted to the Federal Government.* If the proposal, plan, or other computation is required to be submitted to the Federal Government to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

(3) *If not submitted to the Federal Government.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government for negotiation purposes, then the three-year retention period for its supporting records starts from the end of the State agency's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(20 U.S.C. 1232c(a); 28 U.S.C. 2415(b); OMB Circular No. A-102, Attachment C.)

§ 100b.481 Unexpended funds.

Whenever any portion of any allotment to any State has not been used in the State for the purpose provided for in the Federal statute, regulations, State plan, State application, or project application, with respect to that allotment, and has not been transferred to another allotment or reallotted to other States pursuant to law in the period during which such allotment is available, a sum equal to such portion may be deducted from the next payment of funds allotted to such State.

(20 U.S.C. 1232d.)

§ 100b.482 Withholding of funds.

The approval of a State plan or State application, the approval of a grant, or the entering into of a contract or other arrangement, and any payment pursuant thereto, shall not be deemed to waive the right of the Commissioner to withhold funds by reason of the failure of the recipient to observe, either before or after such administrative action, any Federal requirements.

(20 U.S.C. 1221c(b)(1).)

§ 100b.483 Waiver of law prohibited.

No official, agent, or employee of the Office of Education of the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the regulations in this chapter (except through amendment by publication in the FEDERAL REGISTER) or other relevant statute or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Commissioner's right to enforcement of said provisions in accordance with their terms.

(42 Dec. Comp. Gen. 31 (1963).)

§ 100b.484 Federal audits.

The records of a recipient are subject to audit by the Federal Government to determine whether the recipient has properly accounted for Federal funds.

(20 U.S.C. 1232c(a)(2).)

§ 100b.494 Closeout.

(a) "Closeout" means the process by which the Commissioner determines that all applicable administrative actions and all required work of the grant have been completed by the State agency and the Commissioner.

(b) In closing out grants, the following shall be observed:

(1) Upon request, the Commissioner will make, or arrange for, prompt payment to the State agency for allowable reimbursable costs not covered by previous payments.

(2) The State agency shall immediately refund to the Federal Government, or otherwise dispose of in accordance with instructions from the Commissioner, any unencumbered balance of cash advanced to the State agency.

(3) The State agency shall submit, within 90 days after the date of completion of the grant, all financial, performance, and other reports required as a condition of the grant. The Commissioner may grant extensions when requested by the State agency.

(4) The Commissioner will make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by applicable statutes, regulations, or the terms and conditions of the grant.

(5) In the event a final audit has not been performed prior to the closeout of the grant, the Commissioner retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(b) The provisions of Subpart L of this part shall be observed by the State agency in accounting for any property acquired with Federal funds, or received from the Federal Government in connection with the grant.

(OMB Circular No. A-102, Attachment L.)

§ 100b.495 Termination of program.

If a State desires at any time not to participate in a Federal program, or upon termination of the program, the State shall refund to the Federal Government any unexpended or unobligated funds which have been paid to the State agency under such Federal program.

(20 U.S.C. 1232d.)

PART 100c—INDIRECT COSTS UNDER CERTAIN PROGRAMS

Sec.
100c.1 Scope.
100c.2 Indirect costs.
100c.3 Exceptions.

AUTHORITY: Sec. 403(b)(1), Public Law 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

§ 100c.1 Scope.

Except as provided in § 100c.3, the provisions contained in this part are applicable to the Federal programs of assistance under the following authorities:

(a) Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a);

(b) Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821);

(c) Title III of the Elementary and Secondary Education Act of 1965 (including sec. 306 thereof) (20 U.S.C. 841);

(d) Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880d);

(e) Part B of the Education of the Handicapped Act (20 U.S.C. 1411);

(f) Part B, sections 131(b), 142(d), and 152; and parts F, G, and H of the Vocational Education Act of 1963 (20 U.S.C. 1262); and

(g) The Follow Through program under section 222(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809 (a)(2)).

(Authority cited in 45 CFR 100c.1.)

§ 100c.2 Indirect costs.

(a) *State educational agencies.*—A State educational agency may incur indirect costs under any Federal program listed in § 100c.1, on the basis of an indirect cost rate approved by the Department pursuant to applicable principles and procedures contained in appendix B to this subchapter.

(b) *Local educational agencies*—(1) *Approval of rates by State educational agency.*—Each State educational agency, on the basis of a plan approved by the Department, shall approve indirect cost rates for those local educational agencies which request the establishment of such rates.

(2) *Formula for determining rates.*—Each such rate approved for a local educational agency is to be determined annually, and shall be the percentage that the amount of the local educational agency's total expenditure for administrative and fixed charges, as defined in paragraphs (b)(3) and (b)(4) of this section, is to the total of all other expenditures (excluding capital outlay, debt service, fines, penalties, contingencies, and election expenses) incurred by that agency for the operation of schools in the most recent year for which such data are available.

(3) *Administrative charges.*—For the purposes of this section, the term "administrative" refers to those activities which have as their purpose the direction and control of the local educational agency's affairs which are districtwide and not confined to one school, subject, or phase of school operations (unless such activity is a service function (such as accounting, payroll, and personnel) normally provided at the district level but is physically located elsewhere for convenience or better management, in which case it shall be so included). Expenditures for the board of education or other governing body of the school district, for the compensation of the chief administrative officer of the school district and of each of the schools of the district, and for the operation of their immediate offices, are not to be included as administrative charges for the purposes of this paragraph and are not to be charged to the Federal program involved on an indirect or direct cost basis.

(4) *Fixed charges.*—For the purposes of this paragraph, the term "fixed charges" shall be limited to school district contributions to retirement (including State, county, or local retirement funds, social security, and pension payments) and to property, employee, and liability insurance. Only the fixed charges applicable to the administrative charges specified in paragraph (b)(3) of this section may be included. Other items of expenditure commonly referred to as fixed charges are not to be included for the purpose of determining indirect cost rates.

(5) *Duplication of costs prohibited.*—Local educational agencies for whom such rates have been approved shall not be allowed to charge administrative and fixed charges (as defined in paras. (b)(3) and (b)(4) of this section) to the Federal program funds on a direct cost basis.

(6) *Maximum indirect costs.*—The amount of Federal program funds to be paid for indirect costs shall not exceed the product of the direct costs incurred in connection with such Federal program multiplied by the indirect cost rate. The same indirect cost rate shall be applicable for the determination of all indirect costs to be paid from funds appropriated under such Federal program for a particular fiscal year.

(OMB circular No. A-87; 20 U.S.C. 1231c(b); 20 U.S.C. 1221c(b)(1).)

§ 100c.3 Exceptions.

(a) *Past expenditures.*—Notwithstanding any other provision contained in this part, no cost shall be allowable under the Federal programs listed in §§ 100c.1(e) and 100c.1(h) either on a direct cost or on an indirect cost basis, if such cost has been met in the recent past (as determined by the Commissioner) by the expenditure of State, local, or private funds.

(20 U.S.C. 1413(a)(4); 42 U.S.C. 2812(d)(1).)

(b) *State-operated projects.*—Notwithstanding § 100c.2(a), indirect cost rates for programs and projects operated directly by a State agency under the Federal programs listed in § 100c.1 shall be determined in the same manner and to the same extent as for a local educational agency under § 100c.2(b).

(Authority cited in 45 CFR 100c.1.)

APPENDIX A—GENERAL GRANT TERMS AND CONDITIONS, U.S. OFFICE OF EDUCATION

1. Definitions.
2. Scope and duration of the project.
3. Limitations on costs.
4. Allowable costs.
5. Accounts and records.
6. Payment procedures.
7. Reports.
8. Printing and duplicating.
9. Applicability of State and local laws and institutional procedures.
10. Copyrights.
11. Publications.
12. Patents.
13. Travel.
14. Personal property.
15. Contracting under grants.
16. Health and safety standards.
17. Compensation.
18. Labor standards.
19. Equal employment opportunity.
20. Use of consultants.
21. Data collection instruments.
22. Program income.
23. Change of key personnel.
24. Animal care.
25. Use of small businesses and minority-owned businesses.

1. *Definitions.* As used in the grant documents relating to this award, the following terms shall have the meaning set forth below:

a. "Commissioner" means the U.S. Commissioner of Education.

b. "Department" means the U.S. Department of Health, Education, and Welfare.

c. "Grantee" means the agency, institution or organization named in the grant as the recipient.

d. "Grants Officer" means the employee of the U.S. Office of Education who is authorized to execute and is responsible for the administration of the grant on behalf of the Government.

e. "Project Officer" means the employee of the U.S. Office of Education who is responsible for the technical monitoring of the project of the grantee as representative of the grants officer.

f. "Project Director" is the person responsible for directing the project of the grantee.

g. "Project" is the activity of program defined in the proposal approved by the Commissioner for support.

h. "Grant Period" means the period specified in the notification of grant award during which costs may be charged against the grant.

i. "Budget" means the estimated cost of performance of the project as set forth in the notification of grant award.

(20 U.S.C. 1221c(b)(1).)

2. *Scope and duration of the project.*— a. The project to be carried out hereunder shall be consistent with the proposal as approved for funding support by the Commissioner and referred to in the notification of grant award and shall be performed in accordance with applicable statutes, regulations (including 45 CFR part 100a—General provisions for direct project grant and contract programs), and the approved project proposal. No substantive changes in the project shall be made unless the grantee, at least 30 days prior to the effective date of the programs, whether or not specifically referenced in this document), and the approved project proposal. No substantive changes in the project shall be made unless the grantee, at least 30 days prior to the effective date of the proposed change, submits an appropriate request therefor to the grants officer, pursuant to 45 CFR 100a.28 (Amendments), along with the juistification for the change, and this request is approved in writing by the grants officer. This condition is subject to 45 CFR 100a.29 (Budget revisions and minor deviations).

b. The grant period may be extended, if otherwise permitted by law, upon timely application of the grantee to the grants officer, and if approved by him in writing prior to the end of the grant period.

(20 U.S.C. 1221c(b)(1).)

3. *Limitations on costs.*—a. The total costs to the Government for the performance of the grant shall not exceed the amount set forth in the notification of grant award or any appropriate modification thereof. The Government shall not be obligated to reimburse the grantee for costs incurred in excess of such amounts unless the grants officer has notified the grantee in writing that the amount set forth in the notification of grant award has been increased and has specified such increased amount in a revised notification of grant award. Such revised amount shall thereupon constitute the revised maximum total cost to the Federal Government of the performance of the grant (45 CFR 100a.51 (Limitations on costs)).

b. Funds for the development and production of audio-visual materials, such as motion picture films, videotapes, filmstrips, slides sets, tape recordings, exhibits, or combinations thereof, for viewing, whether for limited or general public use, are not authorized until prior written approval is received from the grants officer.

c. In the case of educational training programs, the limitation on costs stated in conditions (3)(a) shall automatically be increased, subject to the availability of appropriations, to cover the cost of allowance for additional dependents not specified in the notification of grant award (where such allowances are otherwise authorized by statute and are allowable under the grant).

d. With respect to construction contracts, the grantee is authorized to include in initial cost estimates a project contingency fund to provide for the cost of unanticipated charges. The fund will be limited to 5 percent of construction and fixed equipment costs before bids are received, and will be reduced to 2 percent after the contracts have been awarded.

(20 U.S.C. 1221c(b)(1); 31 U.S.C. 200; authority cited in 45 CFR 100a.10.)

4. *Allowable costs.*—a. Expenditures of the grantee may be charged to this grant only if they: (1) Are in payment of an obligation in-

curred during the grant period and (2) conform to the approved project proposal.

b. Subject to condition 4(a) and applicable Federal statutes and regulations, allowability of costs incurred under this grant shall be determined in accordance with Subpart G of 45 CFR Part 100a (Cost Principles).

c. Indirect costs for educational training programs (except for State and local governments) will be allowed at either (1) the actual level of the organizational indirect costs or (2) 8 percent of total direct costs, including stipends and dependency allowances, whichever is the lesser.

(OMB Circular Nos. A-21, A-87; 20 U.S.C. 1231c(b), 1232c(b) (2).)

5. *Accounts and records.*—a. The grantee shall maintain accounts, records, and other evidence pertaining to all costs incurred, and revenues or other applicable credits acquired under this grant, including such records as are required under section 434 of the General Education Provisions Act (Public Law 90-247, title IV, as amended) pursuant to 45 CFR 100a.477 (Retention of records). The system of accounting employed by the grantee shall be in accordance with generally accepted accounting principles used by State or local agencies, or institutions of higher education, or nonprofit institutions, as appropriate, and will be applied in a consistent manner so that the project expenditures can be clearly identified.

(20 U.S.C. 1232c (a) (1), (b) (2).)

b. *Cost-sharing records.*—The grantee's records shall demonstrate that any contribution made to the project by the grantee is not less, in proportion to the charges against the grant, than the percentage specified in the grant or any subsequent revision thereof.

(20 U.S.C. 1232c(a) (1).)

c. *Examination of records.*—The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee that are pertinent to the grant, at all reasonable times during the period of retention provided for in 45 CFR 100a.477 (retention of records).

(20 U.S.C. 1232c(a) (2).)

d. *Independent audit.*—Each State or local government grantee shall make appropriate provision for the auditing of project expenditure records in accordance with 45 CFR Part 100a, Subpart O (Financial Management Systems). Three copies of the reports of any such audits shall be promptly forwarded by the grantee to the cognizant department regional audit director for the region in which the grantee is located.

(20 U.S.C. 1232c (b) (2), (b) (3); OMB Circular No. A-73.)

e. *Period of retention.*—Except as provided in paragraph (5) (f), all records and books of accounts related to this grant in the possession of the grantee shall be preserved by the grantee in accordance with 45 CFR 100a.477 (retention of records).

(20 U.S.C. 1232c(a) (1).)

(20 U.S.C. 1232c(a).)

f. *Adjustments.*—The grantee shall (pursuant to 45 CFR 100a.53(c)), in maintaining project expenditure accounts, records, and reports, make any necessary adjustments to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from administrative reviews and audits by the Federal Government or by the grantee. Such adjustments shall be set forth in the financial reports filed with the grants officer.

(20 U.S.C. 1232c(a) (1), 1232d.)

6. *Payment procedures.*—Payments under the grant shall be made in accordance with the payment schedule which is set forth in the special terms and conditions, or as costs occur, at the discretion of the grants officer.

(20 U.S.C. 1232d.)

7. *Reports.*—The grantee shall submit such fiscal and other reports as may be required in 45 CFR Part 100a, in the grant, or by the grants officer, and in the quantity and at the time stated in the report schedule which is set forth in the special terms and conditions.

(20 U.S.C. 1232c(b) (3).)

8. *Printing and duplicating.*—All printing or duplicating authorized under this grant is subject to the limitations and restrictions contained in the current issue of the "U.S. Government Printing and Binding Regulations" if done for the use of the U.S. Office of Education within the meaning of those regulations.

(44 U.S.C. 501.)

9. *Applicability of State and local laws and institutional procedures.*—Except to the extent specifically provided for in this grant or applicable Federal statutes and regulations, the grantee is subject to State and local laws, rules, regulations, and any instructional procedures which pertain to the expenditure of funds and which are designed to protect the public fisc.

(16 Comp. Gen. 948 (1937).)

10. *Copyrights.*—a. Any material of a copyrightable nature produced under the grant shall be subject to 45 CFR 100a.219(a) (Copyrights). Materials produced by trainees or fellows are not considered to be produced under the grant unless they are produced at the direction of the grantee.

b. With respect to any materials for which the securing of a copyright protection is authorized, the grantee hereby grants a royalty-free, nonexclusive and irrevocable license to the Government to publish, translate, reproduce, deliver, perform, use, and dispose of all such materials for governmental purposes.

c. To the extent the grantee has or acquires the right and permission to do so, the grantee hereby grants to the Government a royalty-free, nonexclusive and irrevocable license to use in any manner for governmental purposes, copyrighted material not first produced in the performance of this grant but which is incorporated in other materials so produced. The grantee shall advise the grants officer of any such copyrighted material known to it not to be covered by such a license.

(35 FR 7317; OMB Circular No. A-102, Attachment N.)

11. *Publications.*—a. Any publication or presentation resulting from or primarily related to the grant covered by these terms and conditions shall contain the acknowledgement set forth in 45 CFR 100a.218 (Publications).

b. Materials produced as a result of the grant may be published without prior review by the Commissioner. Five copies of such materials shall be furnished to the grants officer. If such materials are published for sale, disposition of the proceeds from such sale shall be governed by 45 CFR Part 100a, Subpart M (Program Income).

(20 U.S.C. 1221c(b) (1).)

12. *Patents.*—a. *Reference.*—Any inventions, whether or not patentable, produced under the grant shall be subject to the provisions contained in 45 CFR 100a.219 (Copyrights and patents).

b. *Reports.*—All inventions made in the course of or under any Office of Education grant shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare.

c. *Commitments.*—The grantee institution and the principal investigator shall neither have nor make any commitments or obligations which conflict with the requirements of this condition.

d. *Determination.*—Determination as to ownership and disposition of invention rights, including whether a patent application shall be filed, and if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may be issued shall be either:

(1) By the Federal Government, or

(2) Where the institution has a separate formal institutional agreement with the Office of Education or the Department, by the grantee institution in accordance with such agreement. Patent applications shall not be filed on inventions under condition 12(d) (1) without prior written consent of the Federal Government. Any patent application filed by the grantee on an invention made in the course of or under an Office of Education grant shall include the following statement in the first paragraph of the sepcification:

"The invention described herein was made in the course of, or under, a grant from the U.S. Office of Education, Department of Health, Education, and Welfare."

e. *Other requirements.*—(1) A complete written disclosure of each invention in the form specified by the Assistant Secretary for Health shall be made by the grantee promptly after conception or first actual reducation to practice, whichever occurs first under the grant. Upon euqest, the grantee shall furnish such duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the rights reserved to it under this condition to enable the Government to apply for and prosecute any patent application, in any country, covering each invention where the Government has the right to file such application.

(2) The grantee shall furnish interim reports (Annual Invention Statements) prior to the continuation of any grant listing all inventions made during the budget period whether or not previously reported, or certifying that no inventions were made during performance of work on the supported project or certifying that no inventions were made during that work.

f. *Supplementary patent agreements.*—The grantee shall obtain appropriate patent agreements to fulfill the requirements of this condition from all persons who perform any part of the work under the grant, except such clerical and manual labor personnel as will have no access to technical data, and except as otherwise authorized in writing by the Department.

The grantee shall insert in each subcontract or agreement having experimental, developmental, or research work as one of its purposes, a clause making this provision applicable to the subcontractor and its employees.

g. *Definitions.*—As used in this section,

(1) "Invention" or "invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States.

(2) "Made" when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of the grant.

h. *Fellows.*—Except as specifically set forth in the grant, inventions made by a fellowship recipient during the term of his award shall be subject to this condition in cases where the fellowship was awarded to support an identifiable research project.
(45 CFR Parts 6 and 8)

13. *Travel.*—Travel allowances, where allowable, shall be paid in accordance with the principles contained in the applicable documents set forth in 45 CFR Part 100a, Subpart G (Cost Principles). No foreign travel is authorized under the grant unless prior approval is received from the gants officer. Travel between the United States and Guam, American Samoa, Puerto Rico, the U.S. Virgin Islands, the Canal Zone, the Trust Territory, and Canada is not considered foreign travel.

(16 Comp. Gen. 948 (1937).)

14. *Personal property.*—The grantee shall be accountable for personal property purchased with grant funds in accordance with 45 CFR Part 100a, Subpart L (Property Management Requirements).

(OMB Circular No. A-102, Attachment N.)

15. *Contracting under grants.*—Where appropriate, the grantee may enter into contracts (to the extent permitted by State and local laws) for the provision of part of the services under this grant by other appropriate public or private agencies or institutions, pursuant to 45 CFR. Such contract or agreement shall be subject to the provisions contained in 45 CFR 100a, Subpart I (Procurement standards).

(OMB Circular No. A-102, Attachment O.)

16. *Health and safety standards.*—Whenever the grantee, acting under the terms of the grant, rents, leases, purchases, or otherwise obtains classroom facilities (or any other facilities) which will be used by students and/or faculty, the Grantee shall comply with all health and safety regulations and laws applicable to similar facilities being used in that locality for such purpose.

(20 U.S.C. 1232c(b) (1).)

17. *Compensation.*—If a staff member or consultant is involved simultaneously in two or more projects supported by funds from the Federal Government, 45 CFR 100a.261 shall govern.

(20 U.S.C. 1232c(b) (2).)

18. *Labor standards.*—a. To the extent that grant funds will be used as a direct cost for construction, alteration, and repair (including painting and decorating) of facilities, the grantee shall furnish the grants officer with the following in order to obtain a wage determination from the Department of Labor:

(1) A description of the alteration or repair work and the estimated cost of the work to be performed at the site;

(2) The proposed advertising and bid opening dates for the work;

(3) The city, county, and State at which the work will be performed; and

(4) The name and address of the person to whom the necessary wage determination and labor standards provisions are to be sent for inclusion in contracts.

b. All of such information shall be submitted not later than 6 weeks prior to the advertisement for bids for the alteration or repair work to be performed. The grantee shall also include or have included in all such alterations or repairs the wage determination and labor standards provisions that are provided and required by the Secretary of Labor under 29 CFR parts 3 and 5.

(20 U.S.C. 1232b, 1232c(b) (3).)

19. *Equal employment opportunity.*—With respect to repair and minor remodeling, the grantee shall comply with and provide for contractor and subcontractor compliance with the requirements of Executive Order No. 11246, as amended by Executive Order No. 11375, and as implemented by 41 CFR part 60. The terms required by Executive Order No. 11246, as so amended, will be included in any contract for construction work, or modification thereof, as defined in said Executive order.

(E.O. No. 11246, as amended.)

20. *Use of consultants.*—a. The hiring and payments to consultants shall be in accordance with applicable State and local laws and regulations and grantee policies. However, for the use of and payment to consultants whose rate will exceed $100 per day, prior written approval for the use of such consultants must be obtained from the grants officer.

b. The grantee must maintain a written report for the files on the results on all consultations charged to this grant. This report must include, as a minimum: (1) The consultant's name, dates, hours, and amount charged to the grant; (2) the names of the grantee staff to whom the services are provided; and (3) the results of the subject matter of the consultation.

(c) On grants made to educational institutions for research or educational services, consultant fees may be paid to employees of the grantee institution only in unusual cases and provided one of the following sets of conditions is determined to exist:

(1) Consultation is across departmental lines and the work performed by the consultant is in addition to his regular departmental load, or

(2) Consultation involves a separate or remote operation and the work performed by the consultant is in addition to his regular departmental load.

The determination as to compliance with the above provisions may be made at the grantee level only by the head of the institution or his designated representative. In those cases where the designated representative is personally involved in the grant under consideration, this determination may only be made by the head of the institution.

(20 U.S.C. 1232c(b) (2), (b) (3).)

21. *Data-collection instruments.*—The grantee shall comply with 45 CFR 100a.263 (Data collection instruments).

(20 U.S.C. 1221c(b) (1).)

22. *Program income.*—The grantee shall comply with 45 CFR Part 100a, Subpart M (Program Income).

(OMB Circular No. A-102, Attachment E.)

23. *Change of key personnel.*—The grantee shall comply with 45 CFR 100a.260 (Changes in Key Personnel).

(20 U.S.C. 1232c(b) (1), (b) (3).)

24. *Animal care.*—Where research animals are used in any project financed wholly or in part with Federal funds, the grantee shall comply with 45 CFR 100a.270 (Treatment of animals).

(20 U.S.C. 1221c(b) (1).)

25. *Use of small businesses and minority owned businesses.* In order to stimulate small business enterprises and minority business enterprises and enable them to exercise a more effective role in the commercial life of the Nation, it is the policy of the Department and the Office of Education to encourage grantees to be aware of, solicit, and make use of such enterprises in the acquisition of services or products, including construction, alteration and renovation, consultant and other services, and procurement of supplies and equipment.

In carrying out this policy objective, grantees are encouraged to:

a. Become aware of those small business enterprises and minority business enterprises that are competent to perform the services or provide the products that the grantees usually acquire;

b. Ensure that such firms are included in invitations for bids or requests for proposals;

c. Make use of the advice and assistance available from Government organizations, such as the Small Business Administration, the Department's Office of Minority Business Assistance, and the Commerce Department's Office of Minority Business Enterprise; and

d. Contact the HEW regional engineer on construction, alteration, or repair projects.

(20 U.S.C. 1232c(b) (1).)

APPENDIX B—COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS

PART I—GENERAL

A. *Purpose and scope.*—1. *Objectives.*—This appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

2. *Policy guides.*—The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that federally assisted program funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.*—These principles will be applied in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to appendix C to this subchapter and (b) publicly owned hospitals and other providers of medical care.

B. *Definitions.* 1. "Approval or authorization of the grantor Federal agency" means documentation evidencing consent prior to incurring specific cost.

2. "Cost allocation plan" means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. "Cost," as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. "Cost objective" means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. "Federal agency" means the U.S. Office of Education.

6. "Grant" means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix as applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. "Grant program" means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. "Grantee" means the department or agency of State or local government which is responsible for administration of the grant.

9. "Local unit" means any political subdivision of government below the State level.

10. "Other State or local agencies" means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. "Services," as used herein, means goods and facilities, as well as services.

12. "Supporting services" means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger services, and the like.

C. *Basic guidelines*.—1. *Factors affecting allowability of costs*.—To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs*.—a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits*.—a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. *Composition of cost*.—1. *Total cost*.—The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs*.—There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. *Direct costs*.—1. *General*.—Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application*.—Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in section G of these principles.

F. *Indirect costs*.—1. *General*.—Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Grantee departmental indirect costs*.—All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs*.—A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

b. *Negotiated lump sum for overhead*.—A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs*.—a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. *Costs incurred by agencies other than the grantee*—1. *General*.—The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost*.—In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a

specific service during the fiscal year involved.

a. *Standard indirect rate.*—An amount equal to 10 percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.*—A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. *Cost incurred by grantee department for others*—1. *General.*—The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

J. *Cost allocation plan*—1. *General.*—A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.*—The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Instructions for preparation of cost allocation plans.*—The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government levels as well as indirect cost proposals of individual grantee departments.

4. *Negotiation and approval of indirect cost proposals for States.*—a. The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

b. At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in a. above for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. Questions concerning the cost allocation plans approved under a. and b. above should be directed to the agency responsible for such approvals.

5. *Negotiation and approval of indirect cost proposals for local governments.*—a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

b. A list of cognizant Federal agencies assigned responsibility for negotiation, approval, and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval, and audit of the indirect cost proposal.

PART II. STANDARDS FOR SELECTED ITEMS OF COST

A. *Purpose and applicability*—1. *Objective.*—This part provides standards for determining the allowability of selected items of cost.

2. *Application.*—These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in part I of this appendix.

B. *Allowable costs*—1. *Accounting.*—The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of Government and is not allowable.

2. *Advertising.*—Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.*—Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.*—The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.*—Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.*—Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.*—The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.*—The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.*—Communication costs incurred for telephone calls or service, telegraph, teletype service, wide-area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

10. *Compensation for personal services.*—a. *General.*—Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) Is reasonable for the services rendered; (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable; and (3) is determined and supported as provided in b. below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution of time.*—Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances.*—a. Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.*—The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.*—Costs identified under a. and b. below are allowable to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) Provided pursuant to an approved leave system and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employer's contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health and welfare costs.*—The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy, are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.*—Costs of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.*—The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.*—Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.*—The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities.*—a. *Memberships.*—The cost of membership in civic, business, technical and professional organizations is allowable provided: (1) The benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services of benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.*—The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.*—Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.*—The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

21. *Payroll preparation.*—The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.*—Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for grant programs are allowable.

23. *Printing and reproduction.*—Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature is allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.*—The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities, and services for grant programs is allowable.

25. *Taxes.*—In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.*—The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.*—Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

28. *Travel.*—Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

C. *Costs allowable with approval of grantor agency*—1. *Automatic data processing.*—The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.*—The cast of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.*—The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.*—The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, is allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.*—Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (sec. C.3) is allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.*—These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.*—The cost of space procured under such arrangements is allowable when specifically approved by the Federal grantor agency.

3. *Capital expenditures.*—The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are (a) Sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new

items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.*—a. Costs of insurance required, or approved and maintained pursuant to the grant agreement, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved selfinsurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d above.

5. *Management studies.*—The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.*—Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.*—Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.*—Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. *Unallowable costs.*—1. *Bad debts.*—Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.*—Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.*—Unallowable.

4. *Entertainment.*—Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.*—Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.*—The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.*—Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.*—Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.*—Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

(OMB Circular No. A-87.)

APPENDIX C—COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS

PART I. PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO RESEARCH AND DEVELOPMENT UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose and scope.*—1. *Objectives.*—This appendix provides principles for determining the costs applicable to research and development work (part I) and training (part II) performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development or training project. The principles are designed to provide recognition of the full allocated costs of such research or training work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

2. *Policy guides.*—The successful application of these principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

b. Each college and university, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities.

e. Institutions shall apply the cost principles and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments will be fully considered during the rate negotiations and audit.

3. *Application.*—The Commissioner will apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles will also be used as a guide in the pricing of fixed price contracts or lump sum agreements.

B. *Definition of terms.*—1. "Organized research" means all research activities of an institution that are separately budgeted and accounted for.

2. "Departmental research" means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organised research," is regarded for purposes of this document as a part of the instructional activities of the institution.

3. "Research agreement" means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

4. "Other institutional activities" means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any other category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institutions indirect costs (as defined in section E.1.) are properly allocable.

5. "Apportionment" means the process by which the indirect costs of the institution are assigned as between (a) instruction and research and (b) other institutional activities.

6. "Allocation" means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research and (b) instruction, including departmental research.

7. "Stipulated salary support" is a fixed or a stated dollar amount of the salary of professional or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

8. "Federal agency or sponsoring agency" means the U.S. Office of Education.

C. *Basic considerations*—1. *Composition of total costs.*—The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in section C.5.

2. *Factors affecting allowability of costs.*—The tests of allowability of costs under these principles are: (a) They must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

3. *Reasonable costs.*—A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) Whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the re-

search agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including Government research.

4. *Allocable costs.*—a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this appendix, is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items is specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular research agreement under the standards provided in this appendix may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

5. *Applicable credits.*—a. The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: Purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F.6., J.10.b., and J.37. for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.*—Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs such as pension plans, FICA and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

a. Such costs meet the requirements of sections C.1. through C.5.

b. Such costs are properly supported by cost allocation plans in accordance with appendix B to this part.

c. Such costs are not otherwise borne directly or indirectly by the Federal Government.

D. *Direct costs.*—1. *General.*—Direct costs are those costs which can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to research agreements.*—Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

E. *Indirect costs.*—1. *General.* Indirect costs are those that have been incurred for common or joint objectives and therefore cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions such costs normally are classified under the following functional categories: General administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

2. *Criteria for distribution.*—a. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.*—The overall objective of the allocation and apportionment process is to distribute the indirect costs described in section F to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in section E.1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c. below. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in d. below.

c. *General considerations on cost groupings.*—The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in b. above and d. below.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organize research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in section B.4.) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. *Selection of distribution method.*—(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under b. above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results that are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (a) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. *Administration of limitations on allowances for research costs.*—Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this appendix, the amount not recoverable under that research agreement may not be charged to other research agreements.

F. Identification and assignment of indirect costs.—1. *General administration and general expenses.*—a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

2. *Research administration expenses.*—a. The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by section J.7. The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be allocated to organized research and, where necessary, to departmental research or to any other benefiting activities on any basis reflecting the proportion fairly applicable to each. (See section E.2.d.)

3. *Operation and maintenance expenses.*—a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture, and equipment; and care of grounds and maintenance and operation of buildings and other plan facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be apportioned and allocated to applicable cost objectives in a manner consistent with the guides provided in section E.2. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows: (1) Where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records; (2) where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost objectives normally will suffice as a means for effecting distribution of the amounts of operation and maintenance expenses involved; or (3) where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others, including students.

4. *Library expenses.*—a. The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under section C.5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchases of rare books (museum-type books) with no research value should not be allocated to Government-sponsored research.

b. The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in section E.2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students, and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

5. *Departmental administration expenses.*—a. The expenses under this heading are those that have been incurred in academic deans' offices, academic departments, and organized research units such as institutes, study centers, and research centers for administrative and supporting services which benefit common or joint departmental activities or objectives. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, divisions, or organized research units, and their administrative staffs together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like provided such supporting services cannot be directly identified with a specific research project, with an instructional activity or with any other institutional activity. The salaries of other members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by section J.7. The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The distribution of departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

6. *Setoff for indirect expenses otherwise provided for by the Government.*—a. The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (secs. F.1. through F.5.). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractual arrangement with the Federal Government other than a research agreement as herein defined (sec. B.3.).

b. The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such setoff shall be made prior to the determination of the indirect cost rate or rates as provided in section G.

G. *Determination and application of indirect cost rate or rates.*—1. *Indirect cost pools.*—a. Subject to b. below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

b. In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under a. above and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

2. *The distribution base.*—Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section G.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demontsrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.*—A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.*—Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carryforward provisions.*—When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

H. *Simplified method for small institutions.*—1. *General.*—a. Where the total direct cost of all federally supported work under research and educational service agreements at an institution does not exceed $1 million in a fiscal year (excluding direct payments by the institution to participants under educational service agreements for stipends, support, and similar costs requiring little, if any, indirect cost support), the use of the abbreviated procedure described in 2. below may be used in determining allowable indirect costs. Under this abbreviated procedure, the institution's most recent annual financial report and immediately available supporting information, with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable both to federally supported research and educational service agreements.

b. The rigid formula approach provided under this abbreviated procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Abbreviated procedure.*—a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under 2.b.(1) and 2.b.(2) have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under 2.a. the amount of salaries and wages included under 2.b.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool 2.b. by the amount of the distribution base 2.c.

e. Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. *General standards for selected items of cost.*—Sections J.1. through J.45. provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

1. *Advertising costs.*—The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for (a) the recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth in J.32.; (b) the procurement of scarce items for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Cost of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.*—Any losses, whether actual or estimated arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Capital expenditures.*—The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of the sponsoring agency.

4. *Civil defense costs.*—Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in section J.10. Costs of local civil defense projects not on the institution's premises are unallowable.

5. *Commencement and convocation costs.*—Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

6. *Communication costs.*—Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

7. *Compensation for personal services.*—a. *General.*—Compensation for personal services covers all remuneration paid currently or accrued to the institution for services of employees rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see section J.39), and pension plan costs (see section J.23). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

b. *Payroll distribution.*—Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to: (1) Instruction, (2) organized research, and (3) indirect activities as defined in section E.1., or (4) other institutional activities as defined in section B.4., will be provided as described in c., d., e., and f., below.

c. *Stipulated salary support.*—As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

d. *Direct charges for personal services under payroll distribution.*—The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either: (1) An adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

e. *Direct charges for personal services under stipulated salaries.*—The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off-period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in section K will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member: (1) Was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

f. *Indirect personal services costs.*—Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

g. *General guidance for charging personal services.*—Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

h. *Nonuniversity professional activities.*—A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantships or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

i. *Salary rates for academic year.*—Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided for in the research agreement or approved in writing by the sponsoring agency.

j. *Salary rates for periods outside the academic year.*—Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subsections of J.7.

k. *Salary rates for part-time faculty.*—Charges for work performed on Government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

8. *Contingency provisions.*—Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Deans of faculty and graduate schools.*—The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

10. *Depreciation and use allowances.*—a. Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved. Amortization methods once used should not be changed for a given building or equipment unless approved in advance by the cognizant Federal agency.

c. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable and needed equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable and needed equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

d. Where the depreciation method is followed, adequate property record must be maintained and periodic inventory (a statistical sampling basis is acceptable) must be taken to insure that properties for which depreciation is charged do exist and are needed. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that, under d above, would be viewed as fully depreciated: *Provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

11. *Employee morale, health, and welfare costs and credits.*—The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.*—Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other facilities.*—The costs of permanent equipment or other facilities are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by the sponsoring agency (through an approved budget or other document) except with approval. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected service life of 1 year or more.

a. *General purpose equipment.*—Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

b. *Research equipment.*—Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

14. *Fines and penalties.*—Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the contracting officer.

15. *Insurance and indemnification.*—a. Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) Types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in d above.

16. *Interest, fundraising, and investment management costs.*—a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allowable under Government research agreements.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable under Government research agreements.

d. Costs related to the physical custody and control of moneys and securities are allowable.

17. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

18. *Losses on other research agreements or contracts.*—Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

19. *Maintenance and repair costs.*—Costs incurred for necessary maintenance, repair or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

20. *Material costs.*—Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

21. *Memberships, subscriptions and professional activity costs.*—a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

22. *Patent costs.*—Costs of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable (see also section J.33).

23. *Pension plan costs.*—Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

24. *Plant security costs.*—Necessary expenses incurred to comply with Government security requirements, including wages, uniforms and equipment of personnel engaged in plant protection, are allowable.

25. *Preresearch agreement costs.*—Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

26. *Professional services costs.*— a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to b. and c. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include: (1) The past pattern of such costs, particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the research agreement.

27. *Profits and losses on disposition of plant, equipment, or other capital assets.*—Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall not be considered in computing research agreement costs.

28. *Proposal costs.*—Proposal costs are the costs of preparing bids or proposals on potential Government and non-Government research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.*—Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

30. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

31. *Reconversion costs.*—Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

32. *Recruiting costs.*—a. Subject to b., c., and d. below: *And provided,* That the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Royalties and other costs for use of patents.*—Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

34. *Sabbatical leave costs.*—Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institu-

tion has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

35. *Scholarships and student aid costs.*—Costs of scholarships, fellowships and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remissions to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs. (See section J. 39.)

36. *Severance pay.*—a. Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover and which otherwise meet the condtions of a. above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

37. *Specialized service facilities operated by institution.*—a. The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, in-use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of b. or c. below, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under section C.5.

b. The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any 1 fiscal year.

c. In the absence of an acceptable arrangement for direct costing as provided in b. above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with the cognizant Federal agency in order to assure equitable distribution of the indirect costs.

38. *Special services costs.*—Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

39. *Staff benefits.*—a. Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each. (See sec. J.34. for treatment of sabbatical leave.)

b. Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see sec. J.23.), tuition or remission of tuition for individual employees or their families (see sec. J.35.), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

40. *Student activity costs.*—Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

41. *Student services costs.*—Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health, and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

42. *Taxes.*—a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.*—Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

44. *Travel costs.*—a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c., d., e., and f., below, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

45. *Termination costs applicable to research agreements.*—a. Termination of research agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this appendix in the case of termination.

b. The cost of common items of materials reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this appendix, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. *Certification of charges.*—To assure that expenditures for research grants and contracts are proper and in accordance with the research agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under research agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the agreements set forth in the application and award documents."

PART II. PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO TRAINING AND OTHER EDUCATIONAL SERVICES UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose.*—This part extends the scope of part I to cover the determination of costs incurred by educational institutions under Federal grants and contracts for training and other educational services.

B. *Application.*—The Commissioner will use parts I and II of this appendix as a basis for determining allowable costs under grants and cost reimbursement type contracts with educational institutions for work performed under federally supported educational service agreements.

C. *Terminology.*—The following definitions are to be used in determining the indirect cost of federally sponsored training and other educational services under this part:

1. *Educational service agreement* means any grant or contract under which Federal financing is provided on a cost reimbursement basis for all or an agreed portion of the costs incurred for training or other educational services. Typical of the work covered by educational service agreements are summer institutes, special training programs for selected participants, professional or technical services to cooperating countries, the development and introduction of new or expanded courses, and similar instructional oriented undertakings, including special research training programs, that are separately budgeted and accounted for by the institution.

The term does not extend to (a) grants or contracts for organized research, (b) arrangements under which the Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts such as a cost of education allowance or the normal published tuition rates and fees of an institution, or (c) construction, facility and exclusively general resource or institutional type grants.

2. *Instruction* means all of the academic work other than organized research carried on by an institution, including the teaching of graduate and undergraduate courses, departmental research (see section B.2. of part I) and all special training or other instructional oriented projects sponsored by the Federal Government or others under educational service agreements.

D. *Student administration and services.*—In addition to the five major functional categories of indirect costs described in section F of part I, there is established an additional category under the title "Student administration and services" to embrace the following:

1. The expenses in this category are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to section J.2. The student administration and services category also includes the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowance or depreciation applicable to the buildings and equipment utilized in the performance of the functions included in this category.

2. The expenses in this category are generally applicable in their entirety to the instruction activity. They should be allocated to applicable cost objectives within the instruction activity, including educational service agreements, when such agreements reasonably benefit from these expenses. Such expenses should be allocated on the basis of population served (computed on the basis of full-time equivalents including students, faculty, and others as appropriate) or other methods which will result in an equitable distribution to cost objectives in relation to the benefits received and be consistent with guides provided in section E.2. of part I.

E. *Direct costs of educational service agreements.*—Direct costs of work performed under educational service agreements will be determined consistent with the principles set forth in section D of part I.

F. *Indirect costs of the instruction activity.*—The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in section D above and in section F of part I. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in section C.6. of part I.

G. *Indirect costs applicable to educational service agreements.*—The individual items of indirect costs applicable to the instruction activity as a whole should be assigned to (1) educational service agreements and (2) all other instructional work through use of appropriate cost groupings, selected distribution bases, and other reasonable methods as outlined in section E.2. of part I. A single indirect pool may be used for all educational service agreements provided this results in a reasonably equitable distribution of costs among agreements in relation to indirect support services provided. However, when the level of indirect support significantly varies for work performed either on campus or off campus under a particular agreement or group of agreements, separate cost pools should be established consistent with the principles set forth in section G.1.b. of part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs, through separate cost groupings, should be excluded from the indirect costs allocable to the service agreements.

H. *Indirect cost rates for educational service agreements.*—An indirect cost rate should be determined for the educational service agreement pool or pools, as established under section G above. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in sections G.4. and G.5. of part I.

J. *General standards for selected items of cost.*—The standards for selected items of cost as set forth in sections J.1. through J.46. of part I applicable to research agreements will also be applied to educational service agreements with the following modifications:

1. *Commencement and convocation costs (J.5.).*—Expenses incurred for convocations and commencements apply to the instruction activity as a whole. Such expenses are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

2. *Compensation for personal services (J.7.).*—Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of section J.7. of part I. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) Extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

3. *Scholarships and student aid costs (J.35.).*—Expenses incurred for scholarship and student aid are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

4. *Student activity costs (J.40.).*—Expenses incurred for student activities are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).*—Expenses incurred for student services are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

(OMB Circular No. A-21.)

Appendix D—Cost Principles for Non-Profit Institutions

A. *Purpose and scope.*—1. *Objectives.*—This appendix provides principles for determining the costs applicable to grants and contracts awarded by the Commissioner and performed by non-profit organizations other than educational institutions, hospitals and State and local government organizations. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a partcular project. The principles are designed to provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. *Definition of non-profit institution.*—(a) A non-profit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals, and (iii) State and local governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and/or expand its operations.

The charter or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise shall inure to the benefits of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a non-profit institution, as defined herein, as the board of directors or trustees may determine. Institutions which have received tax exemptions as non-profit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms non-profit and not-for-profit as they are descriptively applied to institutions shall be considered synonymous provided the requirements of 2(a) are met.

3. *Policy Guides.*—The successful application of these principles requires development of mutual understanding between representatives of nonprofit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities, and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. *Application.*—These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Commissioner. The principles shall also apply to cost-reimbursement type contracts performed under grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. *Basic considerations.*—1. *Composition of total cost.*—The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. *Factors affecting allowability of costs.*—Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. *Definition of reasonableness.*—A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract;

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. *Definition of allocability.*—A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the standards of accounting and financial reporting for voluntary health and welfare organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to nonfederally supported activities it must also use such standards to allocate costs to Federal grants/contracts.

5. *Applicable credits.*—The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. *Direct costs.*—1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government-supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a grant/contract. These unallowable costs or activities are identified in section G. Even though a particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in section D.2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(s). Thus the costs associated with the following types of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection ,and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.

(h) Other activities performed primarily as a service to a membership, clients, or the public.

3. This definition shall be applied to all items of cost of significant amount unless the institution demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in section D.

D. *Indirect costs.*—1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a nonprofit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-in-being, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc (see sec. C.2.).

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the groupings on the basis of the benefits accruing to the several cost objectives. Subgrouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided: (1) It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

4. A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. *Determination and application of indirect cost rate or rates*—1. *Indirect cost pools.*—(a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that: (1) Such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. *The distribution base.*—Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. *Application of principles and procedures.*—1. Costs shall be allowed to the extent that they are reasonable (see B.3.) allocable (see B.4.) and determined to be allowable in view of the other factors set forth in paragraph B.2. and section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus if the subcontract is for supplies or services with a nonprofit institution other than an educational institution, hospital or State and local governmental unit, this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution, OMB Circular No. A–21 (Federal Procurement Regulation Part 1.15.3) would apply.

3. Selected items of cost are treated in section G. However, section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. *General standards for selected items of cost.*—Sections G–1 through G–46 provide standards to be applied in establishing the allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit institutions which are so diverse in nature and not subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness of allocability are difficult to determine. Such action may also be initiated by the Government.

Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;
3. Deferred maintenance costs;
4. Excess facility costs;
5. Materials, services and supplies sold between organizations or divisions under common control;
6. Preaward costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. *Advertising costs.*—(a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, trade papers, outdoor advertising, dealer cards and window displays, conventions, exhibits, free goods and samples, and the like.

(b) The only advertising costs allowable are those which are solely for: (1) The recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment costs, as set forth in G.36.; (2) the procurement of scarce items for the performance of the grant/contract; or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in paragraphs B.3., B.4., and section D are observed.

2. *Bad debts.*—Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. *Bidding or proposal costs.*—Bidding or proposal costs are the immediate costs of preparing bids or proposals on potential Government and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in sections G.16 and G.30.

4. *Bonding costs.*—(a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Civil defense costs.*—(a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures), undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G.10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. *Compensation for personal services.*—(a) *Definition.*—Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to, salary, wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans.

(b) *Allowability.*—Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness.*—(1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in federally sponsored activities, and in cases where the kind of employees required for the federally sponsored activities are not found in the institution's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.*—In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.*—Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to shareholders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g) (1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages.*—Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25. as it relates to compensation for overtime.

(3) *Incentive compensation.*—Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payment. Awards and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred compensation.*—(a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence

of other events as provided in the plans, except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effore the services are rendered, or pursuant (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of 10 years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it falls within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future adnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe benefits.*—Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) *Severance pay.*—See G.40.

(7) *Training and education expenses.*—See G.44.

(8) *Location allowances.*—(a) "Location allowances," sometimes called "supplemental pay" or "incentive pay," are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of education, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

(b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) *Support of salaries and wages.*—(a) Direct charges for professionals must be supported by either:

(i) an adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible officials and a reporting of any significant change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) a monthly after-the-fact certification system which will require persons in supervisory positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the total salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. *Capital expenditures.*—The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment are unallowable except as provided for in the grant/contract.

8. *Contingencies.*—(a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G.17., G.21., and G.40.).

9. *Contributions and donations.*—(a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1. and C.2. shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. *Depreciation and use allowances.*—(a) Institutions may be compensation for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings, and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and second, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal income tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(a) The straight line method;

(b) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (a) above;

(c) The sum-of-the-years-digits method; and

(d) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (b) above.

(e) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(f) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G.13.)

(g) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated; provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(h) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

(i) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. *Employee morale, health, welfare costs and credits.*—(a) Employee morale, health and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations or similar types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conductive to accomplishment of the above objective; are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could enconomically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. *Entertainment costs.*—Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G.11. and G.43.).

13. *Excess facility costs.*—(a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below:

(1) Facilities means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) Idle Facilities means completely unused facilities that are excess to the institution's current needs.

(3) Idle Capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. (A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.)

(4) Costs of Idle Facilities or Idle Capacity are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The cost of idle facilities are unallowable except to the extent that:

(i) They are necessary to meet fluctuations in workload; or

(ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.42.(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. *Fines and penalties.*—Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a re-

sult of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. *Fringe benefits.*—See G.6.(g)(5).

16. *Independent research and development.*—(a) An institution's independent research and development (IR&D) is that research and development which is not sponsored by the Government or a non-Government organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materials, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g., interview, circularization of questionnaires), observations or from books, treatises, articles, or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I R & D shall be allocated its proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I R & D, including its proportionate share of indirect costs, is unallowable.

17. *Insurance and indemnification.*—(a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage or profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see G.6.).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(c) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a)(3) above.

18. *Interest and other financial costs.*—(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share of indirect costs in accordance with section D (see also C.2.).

19. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. *Losses on other grants or contracts.*—Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. *Maintenance and repair costs.*—(a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G.10.):

(1) Normal maintenance and repair costs are allowable;

(2) Extraordinary maintenance and repair costs are allowable, provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. *Materials costs.*—(a) The cost of consumable supplies, serum, drugs, fabricated parts, and other materials necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs, consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of material shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and material returned to vendors. Such income and other credits shall either be credited directly to the cost of the material involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from difference between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materials are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable. When estimates of material costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materials, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materials, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public"; or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity:

Provided, That in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary or affiliate of the institution under a common

control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency.

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. *Organization costs.*—Expenditures, such as incorporation fees, attorney's fees, accountant's fees, brokers' fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. *Other business expenses.*—Included in this item are such recurring expenses as preparation and publication of reports to members and trustees, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. *Overtime, extra-pay shift and multi-shift premiums.*—Premiums for overtime, extra-pay shift, and multi-shift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of Government grant or contract, the continued need therefor should be subject to periodic review by the awarding agency.

26. *Patent and copyright costs.*—Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connection with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is *not* conveyed to the Government are unallowable (see G.39.).

27. *Pension plans.*—(See G.6.(g)-(4).)

28. *Plant protection costs.*—Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. *Plant reconversion costs.*—Plant reconversion costs are those incurred in the restoration or rehabilitation of the institutions' facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. *Preaward costs.*—Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. *Professional service costs—legal, accounting, scientific and other.*—(a) Costs of professional services rendered by the member of a particular profession who are not employees of the institution are allowable, subject to (b), (c), and (d) below, when reasonable in relation to the services rendered (but see G.23.).

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the institution's capability in the particular area;

(3) The past pattern of such costs, particularly in years prior to the award of Government work;

(4) The impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government grants contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. *Profits and losses on disposition of plant, equipment, or other capital assets.*—Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing grant or contract costs.

33. *Public information services costs.*—Public information services cost includes the cost associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems.

(b) Interest individuals or groups in participating in a service program of the institution.

(c) Provide stewardship reports to State and local government agencies, benefactor foundations and associations, etc.

(d) Appeal for funds.

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all major activities of the institution except that costs related to fund raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. *Publication and printing costs.* Publication costs include the costs of printing (including the processes of composition, platemaking, presswork, binding, and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

36. *Recruitment costs.*—(a) Subject to (b), (c), and (d) of this G. 36., and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs

not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising material for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. *Relocation costs.*—(a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided: (i) The move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G.36. or any other paragraph of this document; and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) The transition period for incurrence of costs of the type covered in (a)(ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a)(iii) above shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. *Rental costs (including sale and leaseback of facilities)*.—(a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance; provided that no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G.42.(e).

39. *Royalties and other costs for use of patents and copyrights.*—(a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining, e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded, or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. *Severance pay.*—(a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by: (1) Law; (2) employer-employee agreement; (3) established policy that constitutes, in effect, an implied agreement on the institution's part; or (4) circumstances of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognises its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

41. *Taxes.*—(a) Taxes are certain charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unreleated to the project supported by the grant or contract.

(2) Taxes in connection with financing, refinancing, or refunding operations (see G.18.).

(3) Taxes from which exemptions are available to the institution directly or available to the institution base on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweights the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to: (i) Determine the legality of such assessment, or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the nonpayment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. *Termination costs.*—Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) *Common items.*—The cost of items reasonably usable on the institution's other work shall not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) *Costs continuing after termination.*—If in a particular case, despite all reasonable efforts by the institution certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such costs continuing after termination due to the negligence or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) *Initial costs.*—Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and material, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamiliarity or lack of experience with the project, materials, manufacturing processes and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the project.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) Loss of useful value.

Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency; and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment was acquired.

(e) *Rental costs.*—Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) *Settlement expenses.*—Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) *Subcontractor claims.*—Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. *Trade, business, technical, and professional activity costs.*—(a) *Memberships.*—This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) *Subscriptions.*—This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) *Meetings and conferences.*—This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. *Training and educational costs.*—(a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related

(b) Costs of on-the-job training and part-time education, at an undergraduate or postgraduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materials and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time scientific and medical education at a postgraduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed 1 school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

45. *Transportation costs.*—Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G.22.).

Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract shall be treated as a direct cost.

46. *Travel costs.*—(a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle or direct costing (see section C).

(e) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency.

(20 U.S.C. 1221e(b)), 31 U.S.C. 698.)

[FR Doc.73-23388 Filed 11-5-73;8:45 am]

APPENDIX B

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OFFICE OF EDUCATION
OE DIRECTIVE

General Administration
OE 2-26
January 2, 1974

SUBJECT: DISCRETIONARY GRANT PROGRAM REVIEW PROCEDURES

I. PURPOSE

This procedure provides the minimum requirements for the review of officially received applications by the designated program office. The procedure establishes the means by which program offices will document and justify the selection of discretionary grant awards. Specific program activities which supplement this procedure are expected in each program office.

II. POLICY

It is the policy of the Office of Education to provide quality review and evaluation of each discretionary grant application. The documentation and justification for action taken on each application is required to assure that published evaluation criteria are applied equally. Only evaluation criteria published in the Federal Register will apply.

III. PROGRAM ACTIONS PREPARING FOR APPLICATIONS RECEIPT

The program office is required to prepare for the receipt of applications by completing the following activities. The classifications' of types of Grant Applications is provided in Exhibit B.

A. Application Technical Review Form - Must be prepared for each discretionary grant program technical review. A sample form which includes the mandatory "Standard" Application Selection Criteria (CFR 45-100a-26) is included as Exhibit A. These Forms require the addition of specific program evaluation criteria as published in the Federal Register.

B. List of Non-government Reviewers

For applications which require an evaluation by a non-government reviewer (See Exhibit B) a list must be prepared by the responsible program office prior to receipt of applications. Internal policy in this respect must be approved by the cognizant Deputy Commissioner.

1. The non-government reviewer must be selected from a list of persons including all those requesting inclusion and

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2. All non-government reviewers will be selected on the basis of their presumed ability to render expert judgment in the field(s) of their expertise.

   The designation of the list of non-government reviewers is required prior to receipt of applications so that application processing may proceed without delay.

C. Program Review Planning

Prior to the deadline date for receipt of applications, the Supervisory Program Officer will ensure that:

1. A list containing a sufficient number of qualified, non-government reviewers will be prepared and each reviewer will be contacted to determine availability
2. Suitable meeting space for review panels, if necessary, has been arranged.
3. Technical Review Forms (Exhibit A) are available.
4. Copies of the Federal Register containing Program regulations, evaluation criteria and program priorities will be available.
5. For each announcement, the program will furnish to the ACC 10 copies of the Federal Register containing Program regulations, evaluation criteria and program priorities. The ACC will furnish a copy to each of the Regional Directors for informational purposes.
6. A milestone schedule is establish setting dates for completion of program application review processing.

IV. PROGRAM APPLICATION REVIEW PROCESSING

A. Receipt

All applications for discretionary grant programs under the cognizance of the USOE central headquarters are officially received by the Office of Education in the Application Control Center (ACC) - OE Directive OE 6-XX. Mailed applications will be stamped in the USOE mail room when received to indicate the official receipt date and forwarded to the ACC. Upon receipt of the ACC Log For Funding from Discretionary Programs, OE Form 5331, and copies of the application (s), the Supervisory Program Officer will:

1. Acceptance - Designate an authorized representative to acknowledge receipt of the applications on the return

copy of OE Form 5331. The retained copy is either maintained for program control or is filed.

2. Logging - A program control log will be prepared by designated Program Control Point. The ACC Log, OE Form 5331 may be used optionally. Program control log must reflect location and review status of each application at all times during the review process. Suspense dates will be designated and monitored.

3 Creation of Files - Appropriate folders will be created for the retention of (1) the original ink-signed copy of the application which is not to be changed or marked up; and (2) the working copy files as appropriate for each program.

B. Screening

Upon receipt of application(s) the Supervisory Program Officer will assign a Program Officer the responsibility for initial screening to determine if the application meets eligibility requirements and if the application is sufficiently complete to warrant consideration for funding. Reasons for rejection will be specifically documented in the file. If the application is to be rejected at this point the Program Offier will prepare a letter to the applicant informing him of the reasons for rejecting his application. It is the policy of the Office of Education that rejections other than on the basis of ineligibility will follow a judgment by a Supervisory Program Officer that the application is so defective that it could not reasonably be technically evaluated. The letter to the unsuccessful applicant will contain the following statement: "This rejection may be appealed to the cognizant Program Officer solely upon the basis of the stated reasons for rejection". A copy of the rejected application will be returned to the applicant with the rejection letter. A copy of the rejection letter will be forwarded to the Application Control Center. The Application Control Center will note the rejection on the ACC log, OE 5331.

C. Technical Review Control

Upon receipt of a favorably screened application, the Program Control Point will prepare a Technical Review Package consisting of:

... The application(s) to be reviewed
... One copy of the program instructions for technical review.
... A copy of the Federal Register containing published program Regulations, evaluation criteria, and program priorities.

... Application Technical Review Form(s) (Exhibit A) in sufficient quantity to record the review for each application.

This package will be logged out and sent to the Program Officer responsible for technical review. A suspense date for completion of technical review will be established and monitored.

D. Technical Review

1. Conduct of Review

The Program Officer assigned responsibility for technical review will furnish review packages to reviewers, coordinate the review and document results. The technical review must include review by a U.S. Office of Education program official and at least one non-Government reviewer - unless exempted by Exhibit B. Additional technical review may be required by the program. The technical review will be conducted solely in accordance with regulations, evaluation criteria, and program priorities published in the *Federal Register*. The program will utilize procedures that will preclude real or apparent conflict of interest situations. If review of an application discloses identification of former OE personnel interested in or employed or to be employed or to receive benefits under the project, the information must be submitted to a higher level of authority for decision concerning further processing of the application.

2. Documentation by Technical Reviewers

An Application Technical Review Form (Exhibit A) must be completed and signed to record each technical review. The signed copy of Application Technical Review Form (Exhibit A) must be held in the application working file until it is transferred to the ACC for negotiation.

3. Contacting Applicants

Prior to the Contracts and Grants Division receiving the official file, no discussions, meetings, negotiations or contact will be made between OE personnel and the applicant's personnel, except to obtain clarification of specific items contained in an application. Such clarifications must be documented and made part of the record. After receipt of the official file by the Contracts and Grants Division, all discussions shall be held jointly among the grants specialist, project officers, and applicant until a grant is awarded. Questionable and negotiable items identified during the technical review will be recorded on the Schedule of Negotiable Items (Exhibit D) for resolution during negotiations subsequent to submission of the official file to the Contracts and Grants Division.

E. Program Recommendations and Approval by Delegated Authority

1. Recommendation
According to internal program procedures, the results of all individual technical reviews will be evaluated, summarized and documented for inclusion in the official file. Based upon this information, applications will be ranked, and a Staff Technical Review Summary Form (Exhibit C) will be prepared which recommends which applications should be considered for funding. The Staff Technical Review Summary Form shall be submitted to the Delegated Authority or his designee. Each Deputy Commissioner will provide the Contracts and Grants Division a list of Delegated Authorities and their designees.

2. Program Approval for Commitment of Funds
The delegated authority will select and approve applications for commitment of funds. His approval is accomplished by signing the Notification to Regional Director of Proposed Action on Project Grant Applications and Contract Proposals (Exhibit E), of those applications approved and disapproved for funding. Decisions by the delegated authority which might appear to be counter to the Staff Technical Review Summary require separate documentation by that official. Applications approved for funding which have been recommended for disapproval by a Regional Director require separate documentation. (This documentation will be forwarded to the RD by the ACC).

V. DOCUMENTATION FORWARDED TO THE APPLICATION CONTROL CENTER (ACC)

The supervisory program officer forwards the following documentation to the ACC, through the Finance Division for commitment of funds.

A. The official file consisting of:

1. The ink-signed applications

2. Procurement Cover Sheet (PCS) Form OE 5291 - signed by the delegated authority or his designee

3. Documentation from the Working File:

a. Application Technical Review Forms (these may be be sealed in envelopes) The sole purpose for sealing envelopes is to prevent inadvertant disclosure to persons without a "need to know".

b. Schedule of Negotiable Items (Exhibit D)

c. Documentation of applicant contact

d. Regional Director comments and any other comments required by law or regulation, e.g. State Agencies.

B. A copy of the Staff Technical Review Summary Form (Exhibit C)

C. The delegated authority approval of projects - Notification to Regional Director of Proposed Action on Project Grant Applications and Contract Proposals (Exhibit E).

VI. REVIEW PROCEDURES - PREAPPLICATIONS

A. Logging. See Paragraph IV A

B. Due Date for Receipt of Preapplications and Applications
Whether or not the preapplication concept is utilized, the deadline date for complete application submission published in the Federal Register applies. Accordingly, a program utilizing the preapplication concept must allow sufficient time to accomodate the additional procedures involved in the submission and processing of preapplications.

C. Screening
In the case of preapplications, the Program Officer will screen them to determine eligibility, comparability with similar preapplications, and ability to meet priorities. These items will be evaluated using the same published evaluation criteria that will be used to evaluate applications for funding. Review of preapplications by non-government reviewers is not mandatory, and notification of Regional Directors is not required. The Program Officer will then complete Exhibit M-2 of OBM Circular No. A-102 entitled Notice of Preapplication Review (Exhibit F). A determination that a preapplication is ineligible or is eligible with low priority does not bar subsequent submission of an application.

D. Notification
The Program Officer will inform the applicant of the results of a review of the preapplication request for Federal Assistance and send a copy of the letter to the ACC. When the review cannot be performed within 45 days, the applicant shall

be informed by letter as to when the review will be completed. When it is determined that the proposal is not eligible or is eligible but does not have the priority for further consideration for Federal assistance, specific reasons should be provided in Item 7, Other Remarks, on the Notice of Preapplication Review (Exhibit F). Program Officers must be aware that this process must take place within the time frame established by the publication in the Federal Register of deadline dates for submission of final applications.

VII. AWARDS AND REJECTIONS

Based upon the content of the Schedule of negotiable items the Contracts and Grants Division Contract/Grant Officer will negotiate the grant award, with the participation of Program Officers as required, and prepare the grant award document. The ACC will insure that OE and Congressional notifications are made. The cognizant Bureau will prepare and mail to unsuccessful applicants a letter explaining the reason for not funding their proposals. A copy of the letter will be sent to the ACC in order to account for all applications received in OE. This letter will bear the control number originally assigned to the application by the ACC.

VIII. RECORDS RETENTION

Program offices and administrative staff offices should refer to the DHEW Records Management Manual, OE portion, for the records retention (disposition) schedules.

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EXHIBIT A

APPLICATION TECHNICAL REVIEW FORM

Program Title: USOE Discretionary Grant Program

Catalog of Federal Assistance Number 13.599

APPLICANT: PR Number # ____________

NAME: ______________________________

ADDRESS: ___________________________

CITY/STATE ____ ZIP CODE ______________

TECHNICAL REVIEWER

Name: ____

____

Phone: ____

Program Title: ____

Project Title: ____

COMMENTS:

Date reviewed __________________ Signature ______________________

EVALUATION CRITERIA	Yes	No	Comments	(Optional Reqmt.) Weight Factor
I. PROGRAMMATIC - Define all the work and related resources required to perform the applicant's proposed project pursuant to the applicable regulations.	▨	▨	▨	▨
1. Is the proposed activity needed in the area served or to be served by the applicant?				
2. Is the proposal relevant to priority areas of concern as reflected in provisions contained in the applicable Federal statutes and regulations?				
3. Is there potential for utilizing the results of the proposed project in other projects or programs for similar educational purposes?				
4. Are the size, scope and duration of the project sufficient in order to secure productive results?				
5. Are the objectives of the proposed project sharply defined and clearly stated?				
6. PUBLISHED APPLICATION REVIEW CRITERIA				
7.				
8.				

COMMENTS:

EVALUATION CRITERIA	Yes	No	Comments	(Optional Reqmt.) Weight Factor
II. ORGANIZATION - Describe the applicant's background, facilities and personnel expertise as it relates to performing the proposed project.				
1. Are the qualifications and experience of applicant's personnel adequate to carry out the proposed project?				
2. Are applicant's facilities and other resources adequate?				
3. [illegible]				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

COMMENTS.

EVALUATION CRITERIA	Yes	No	Comments	(Optional Reqmt.) Weight Factor
III. MANAGEMENT - Identify the applicant's organizational elements, and describe how they function internally, including subcontracts, to insure the project is accomplished with in the time limits and resources available.				
1. Is the proposed plan of operation sound? Consideration of soundness should include the following points:				
(i) Are the objects of the project capable of being attained by the proposed procedures and capable of being measured?				
(ii) Are provisions made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished?				
(iii) Where appropriate, are provisions made for satisfactory inservice training connected with project services? and				
(iv) Are provisions made for disseminating the results of the project and for making materials, techniques, and other output resulting therefrom available to the general public and specifically to all those concerned with the area of education with which the project is itself concerned?				
2. PUBLISHED APPLICATION REVIEW CRITERIA				
3.				

COMMENTS:

EVALUATION CRITERIA	Yes	No	Comments	(Optional Reqmt.) Weight Factor
IV. FINANCE & ACCOUNTING - Provide adequate project cost details to support the proposed budget in relation to the anticipated end results.				
1. Is the estimated cost reasonable in relation to the anticipated results?				
2.				
3. Published Application Review Criteria				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				

COMMENTS:

CLASSIFICATIONS OF TYPES OF GRANT APPLICATIONS

TYPES	DEFINITIONS	DISTINGUISHING FEATURE	LIMITATIONS	Non-Gov't. Review Required
NEW	An action which is being submitted by an applicant for the first time.	Not previously submitted	Availability of funds. Successful competition based upon published evaluation criteria	YES
CONTINUATIONS	A grant application which contains multiyear documentation and the original grant contemplated multiyear funding	Multiyear scope and budget	Funds are available. Successful prior year performance. Continuation is in the best interest of the Government	NO
COMPETING CONTINUATIONS	A grant application which proposes to continue an existing grant beyond the grant period on a year-to-year basis	Year-to-year application is required; treated the same as a new application	Availability of funds. Successful competition based upon published evaluation criteria	YES
COMPETING EXTENSION GRANT	The first grant made in support of the project period extension, requested on a competing extension application (Grants Adm. Manual 1-85-20D)	Multi-year project period following a multi-year project period	Availability of funds. Successful completion of prior project period	YES
SUPPLEMENTAL GRANT	An action which pertains to an increase in the amount of the Federal contribution for the same period	Funding increase, No time extension	Availability of funds. Program judgment priorities	NO
CHANGES IN THE EXISTING GRANT	Increase in duration Decrease in duration Decrease in Federal Funding	Grant period changes. Federal contribution decreases only	No funding increases	NO

EXHIBIT B

EXHIBIT C

STAFF TECHNICAL REVIEW
SUMMARY FORM

- INDIVIDUAL PROGRAM FORMATS -

NOTE:

1. If weight factors are assigned on the Application Technical Review Form (Exhibit A) this summary would include a composite weight.
2. It is desireable for the Supervising Program officer to indicate how competitive the applicants proposal is in comparison with similar applicants in terms of cost and technical competence, ranking from unsatisfactory, satisfactory, above average, to outstanding.

EXHIBIT D

Page 1 of 3

Schedule of Negotiable Items

A. Indicate the assigned PR Number, the name of the applicant. ____________

PR Number: ____________ **Project Identification**

Institution: ____________ ____________

Project Officer: This is to be a handwritten Document, please be sure it's legible.

B. Scope of Work:

If you as the project officer feel that the proposal needs adjustments in any of these areas, make your recommendation.

Recommended changes in the Proposal are indicated as noted below with respect to:

1. Design/Objectives

2. Methodology/Activities (Milestones)

3. Measuring Instruments/Evaluation

4. Production or Remodeling of Materials:

5. Other:

C. Scheduling and Reporting:

(1) If this is a continuation project or a project that will be continued during several budget periods indicate the total duration i.e., continuation project funded in 1969 7-1-69-6-30-75 the current budget period would be 7-1-73 - 6-30-74.

1. The following specifications in scheduling and reporting are recommended:

   a. Starting and ending dates (project period) ____________
   b. Starting and ending dates (budget period) ____________
   c. Phasing and sequencing of project events:

2. Indicate the type of report (interim/final/monthly) that you need to monitor the project, the dates you need them and the number of copies. Also indicate if there are any special requirements of the reports, such as format, special items to be included, etc.

a. Due dates:
b. Number of reports: ____________ interim/ ____________ final/ ____________ other
c. Special requirements on the above reports that should be reflected in the Award Document:

D. Budget:

Do you as the project officer feel that the costs are necessary and reasonable to do the proposed work? If not, indicate any questionable items and the basis for your questions.

Budget Item	Question or Issue
Direct Costs:	
1. Salaries and Wages Professional Staff Technical Staff Consultant Staff Support Staff	
2. Employee Benefits	
3. Travel	
4. Equipment (Property Management)*	
5. Materials and Supplies	
6. Communications	
7. Services a. Duplication and Reproduction b. Statistical c. Testing d. Other	
8. Final Report Production	

*If items of equipment are listed, OE Form 5225 should accompany the requirement.

9. Trainee Cost/Stipend(s)

10. Institutional Allowance

11. Other Direct

Supplemental Information

1. History of contacts with applicant with regard to this proposal:

2. Other OE program personnel to be involved in negotiations:
(Names and reason(s) for involvement, i.e., Don Jordan for AV information)

3. Additional comments, recommendations: Indicate under Number 3 the necessary clearances and the dates cleared, i.e., ADP, Copyright, forms, clearances, Audio-Visual.

Date	Project Officer
Phone Number	Bureau/Division/Branch

EXHIBIT F

NOTICE OF PREAPPLICATION REVIEW ACTION

From: ____
(Department, bureau, or establishment)

Agency Number

____

To:

Reference Your Preapplication

Number ____________________

Dated: ____________________

1. We have reviewed your preapplication for Federal assistance under ______________________________ and have determined that your proposal is:

__________ eligible for funding by this agency and can compete with similar applications from other grantees.
__________ eligible but does not have the priority necessary for further consideration at this time.
__________ not eligible for funding by this agency.

2. Therefore, we suggest that you:
__________ file a formal application with us by (date) ____________________ .
__________ file an application with ________________________ (Suggested Federal agency).
__________ find other means of funding this project.

3. Based upon the funds available for this program over the last two fiscal years and the number of applications reviewed, or pending, we anticipate that funds for which you are competing will be available after (month, year) ____________________ .

4. You requested $ ______________ Federal funding in your preapplication form, and we:
__________ are agreeable to consideration of approximately this amount in the formal application.
__________ will need to analyze the amount requested in more detail.

5. A preapplication conference will be ______ necessary ______ not necessary. We are recommending that it be held at ____________________ , on ____________________ , at ____________________ a.m./p.m. Please contact the undersigned for confirmation.

6. Enclosures: ________ Forms ________ Instructions ________ Other (Specify) ____________________

7. Other Remarks:

Signature	Title	Date
Organizational Unit	Administrative Office	Telephone Number
Address		

NOTE: This form will be used by Federal agencies to inform applicants of the results of a review of their preapplication request for Federal assistance. When the review cannot be performed within 45 days, the applicant shall be informed by letter as to when the review will be completed. When Federal agencies determine that the proposal is not eligible for Federal assistance, specific reasons should be provided in Item 7 Other Remarks.

NOTIFICATION TO REGIONAL DIRECTOR OF PROPOSED
ACTION ON PROJECT GRANT APPLICATIONS AND CONTRACT PROPOSALS

Name of
Agency/Program Office____ Headquarters Mailing Date:__________________

Return to Agency by:__________________

Region:__________________

Agency Project Number	Grantee or Contractor Name	Grantee or Contractor Location (City - State)	OMB Catalog Number & Brief Title of Project	Agency Program Contract Name & Phone	Reasons for Headquartes Action *Approve or Disapprove, etc.	Planned Date Notification Amt. of Awar

*If The Regional Director has placed conditions on the award, written evidence that these conditions have been addressed should be provided.

APPENDIX C

SECTION 4 - ADMINISTRATIVE PROCEDURES

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Introduction

The primary purposes of this Section of the Manual are threefold:

- To facilitate administrative direction and data flow in the EEO regional offices.
- To clarify functional responsibilities in order to eliminate duplication of effort.
- To facilitate training and assimilation of new personnel in EEO regional offices.

Role of Control Unit

In order to execute the administrative procedures delineated in this Section, it is necessary that each EEO Regional Office establish or have access to a Regional Control Unit. The Regional Control Unit should serve as the managing agent for receipt control, distribution, and tracking of all written communications to or from the EEO office. The Control Unit will additionally be responsible for maintaining the regional store of information related to all applications received by the EEO office as well as maintaining record of all official correspondence.

Application Processing

1. The Regional Control Unit will receive, control, distribute and track all applications for assistance received by the EEO office, as well as all other written communications from potential grantees.
2. The Regional Control Unit receive, control, distribute and track all written communications from local, State or Federal governmental offices or agencies regarding EEO applicants or applications.

Monitoring Process

1. The Regional Control Unit will be responsible for receiving, controlling, distributing, and tracking all reports from grantee received by the EEO Regional Office.
2. The Regional Control Unit will be responsible for receiving, controlling and distributing all documents relating to grantee performance submitted from local, State or Federal governmental offices or agencies.

Reports

1. The Regional Control Unit will produce the following reports for appropriate distribution according to a schedule and time table to be determined by the Program Manager.
    - a) A listing of applicants by State, type of application, and dollars requested.
    - b) A listing of grantees by State, type of application, and dollars awarded.
    - c) A listing of applicants requesting (1) $500,000 or more (2) $200,000 - $500,000. (ESA Only)
    - d) A listing of applicants whose plan eligibility status report has not been received from OCR. (ESA Only)
    - e) A listing of applicants for whom the appropriate SEA has not returned comments. (ESA Only)
    - f) Status report on who has/has not submitted quarterly reports.
2. The Regional Control Unit will prepare reports as may be directed by the Program Manager, the Director of School Systems or the Regional Commissioner.

Correspondence

Letters of inquiry to the OE Regional Office concerning ESAA or Title IV CRA from Congress, elected officials, special interest groups and the general public should be handled in accordance with the following procedures:

1. The Regional Control Unit will be responsible for tracking correspondence assigned to the Equal Educational Opportunity office for response over the signature of the Program Manager, Director of School Systems, the Regional Commissioner, or the Regional Director.
2. Once a letter has been signed and a copy returned to the EEO office, the Regional Control Unit will be responsible for insuring that a copy of both the incoming and the signed response is filed in the Official Case File and a copy of the signed response is returned to the person who drafted the reply.
3. For responses that are prepared with the EEO Office for signature by someone other that the Program Manager, the Regional Control Unit will insure that the EEO Program Manager has reviewed the draft response and that a copy of the draft response and a copy of the incoming letter is retained in the EEO files.

4. The Regional Control Unit will be responsible for forwarding to the Central Control Unit, Washington copies of all Congressional inquiries and responses.

5. The Regional Control Unit will be responsible for forwarding to the Central Control Unit Washington copies of inquiries and responses of a sensitive or controversial nature as determined by the Program Manager.

I. Pre-Application Technical Assistance Procedures (ESA Only)

Regional Commissioners will be responsible for providing pre-application technical assistance for all potential ESA applicants. The primary activity will be that of disseminating information concerning assistance available and methods for applying for grants under the ESAA. Such assistance shall consist of both general information and individualized assistance with application development.

A. Information Dissemination

1. A descriptive brochure for the ESA program prepared jointly by the Bureau of Equal Educational Opportunity with the OE/Office of Public Affairs will be mailed to all LEAs and nonpublic schools directly from OE/Washington. Regional Offices will be provided with bulk supplies of brochures. Each ESA Program Manager will be held responsible for developing a mailing list covering the nonprofit organizations within the Region. Program managers are required to mail informational brochures to all potential nonprofit organization ESA applicants.

2. Subsequent to publicizing assistance available under ESA by mailing the informational bulletin, pre-application information dissemination will be made available through general meetings and/or conferences. These group sessions may vary from region to region depending upon the possible number of applicants in a given area. For example, one regional office may want to convene all potential applicants at the location of the regional office; another may decide to hold meetings in each State in the regional office to hold several meetings within the particular State to accommodate all potential applicants. Further, it is possible to hold sessions in selected States, inviting potential applicants on the basis of their proximity to a given location within the region.

   - Regional Commissioners are responsible for notifying and inviting both potential LEA and nonprofit group grant applicants to attend the information dissemination conferences and/or meetings scheduled for a given State, part of a State, region, or area of a region.

   - ESA Program Managers will develop plans for and schedule the large-group information meetings on the basis of the regions' individual needs.

   - The group sessions must include both potential LEA and nonprofit organization applicants. To emphasize the program policy that local educational agencies and nonprofit organizations will be required to develop a comprehensive approach toward the school district's needs, separate meetings for the two types of applicants are not to be scheduled.

- Representatives from nonpublic schools located within the boundaries of each potential applicant school district are to be notified of and invited to the same information dissemination conference that the particular LEA will attend. If potential LEA applicants wish, student representatives may accompany them to the meetings.

- Chief State School Officers, concerned members of State educational agencies, representatives of State nonpublic school organizations, and staff of General Assistance Centers are to be invited to attend and encouraged to participate in these information dissemination sessions for potential applicants.

- Regional contracting officers, regional attorneys, other OE staff with special expertise (e.g., Title I and Bilingual specialists), and Office for Civil Rights (OCR) specialists should be included among those persons participating in large-group information dissemination conferences.

- The agenda for all group sessions will include explicit information dissemination concerning ESA regulations with special emphasis on revisions, ESA Manuals and for Applicants and Grantees and application forms and instructions. OCR specialists should be present to explain the civil rights aspects of ESA. Any other useful data which the ESA Program Manager deems relevant may be included on the agenda.

- Basic program materials including informational brochures, regulations, applicant manuals and application forms will be distributed to the regional offices by the Bureau of Equal Educational Opportunity. Regional offices may prepare additional informational materials if they wish to do so; however, they should clear such materials with BEEO to ensure that the information contained therein is not contradictory to policies established by Washington.

- Washington staff will be available on request to assist regional office staff at all sessions.

- Encouragement of State educational agencies' leadership in assisting with application development and program planning for their clients.

- Coordinating efforts to advance quality of education by assisting with applications to other Federal programs such funds.

B. Individualized Assistance

1. Following the general information dissemination meetings described above in Paragraph A, ESA Program Managers will be responsible for having staff available to give individualized technical assistance to applicants who request such help. In cases where ESA regional manpower resources are not sufficient to respond to the number of requests, the ESA Program Managers may seek additional help from Washington.

2. It is important that Regional Commissioners encourage State educational agency staff and General Assistance Center personnel to assist ESA Program Managers in giving technical assistance to clients. It is advisable for ESA Program Managers to hold training programs for support staff personnel from other agencies and institutions. The State educational agency should always be notified of and invited to participate in all pre-application technical assistance visits to local education agencies.

3. Individualized pre-application technical assistance should provide clients with services such as those listed here:

   - Assistance in completion of applications, including advising on the development of a viable and comprehensive project emphasizing basic instructional services.
   - Advising on the development of broad-based community support.
   - Dissemination of information on successful programs and practices designed to overcome the disadvantages of minority group isolation.
   - Helping to formulate programs under the authorized activities that will eliminate, reduce or prevent minority group isolation, and at the same time improve the quality of education for all children.
   - Recommendations for curricular and organizational changes, if requested.
   - Advising the applicants on how to identify problems incident to desegregation and isolation.
   - Consultation on educational implications of desegregation and minority group isolation.
   - Recommending resource personnel capable of providing expertise in specific program areas.

II. Intake and Preparation Procedures

ESAA applications (basic, pilot, bilingual and nonprofit) will be submitted in the original and nine (9) copies, while Title IV (CRA) applications will be submitted in the original and two (2) copies to the appropriate Regional Office. This means that six (6) copies of the Title IV applications will have to be reproduced.

Upon receipt of an application, the Regional Control Unit will officially record its receipt by performing the following functions:

1. Time-and-date stamp each copy of application

2. Assign a project number sequentially to each application from authorized control numbers. (See Appendix C for detailed information concerning project numbers.)

3. Stamp each copy of the application "ORIGINAL."

4. Number each copy of the application; the copy with original signatures will be the Official Case File copy and should be numbered Copy #1.

5. Enter receipt of application on OE Form 135, Master Control Log.

6. For CRA Title IV applications, as soon as the application is logged in, Copy #1 should be used to reproduce six (6) additional copies of the application. In order not to loose time while waiting for the reproduction to be completed copies #2 and #3 should be immediately distributed in the following manner.

7. Copy #2 should be given to the Program Manager immediately who assigns the application to a Program Officer. The Program Officer completes the application checksheet which should be placed in the case file immediately.

8. On the day of receipt of application, immediately after it has been logged in Copy #3 should be hand-carried to the Regional Director's office. Two copies of OE Form 247, Transmittal Form for HEW Regional Director's Review are to be prepared and attached to the application.

9. Copy #4 should be hand-carried to the Regional Office for Civil Rights. For ESA applications the Program Officer first checks to see if the application contains a desegregation plan. Also for ESA applications, two copies of OE Form 138, OCR Verification of Applicant's Plan Status are to be attached to the application. The completed OCR Verification of Applicants Plan must be returned

to the Regional Control Unit within 48 hours after delivery to the Regional OCR. For Title IV and ESA NPO applications, two copies of OE Form 273, OCR Report on Applicant's Compliance Status, are to be attached to the application. The completed form should be returned to the Regional Control Unit within 30 calendar days after delivery to the Regional OCR. The Compliance Status Review for ESA applications may begin as soon as OCR receives the application.

10. Copy #5 should be hand-carried to the Contracting Officer on the day of receipt of the application.

11. Either simultaneously with the distribution of copies or immediately following, the Control Unit should:

    a. Prepare the Official Case File Jacket

    b. Prepare and mail letter to applicant acknowledging receipt of application. (See format for acknowledgement letter under Appendix B.)

12. Each Regional Control Unit is required to transmit to Washington by telecopier every Monday, up to and including the final date for receipt of applications, a weekly list of all applications received by c.o.b. of the previous Friday. OE Form 237, Weekly Application Receipt Report, will be used for this report.

ESA Only

13. After return of the OCR Verification of Applicant's Plan Status, indicating that the school district is qualified to apply for assistance, the Control Unit will forward a copy of the OCR Verification of Applicant's Plan Status (Form 138) to all holders of the application and will immediately send Copy #6 of the application to the State educational agency, with two copies of OE Form 235, Transmittal Form for State Educational Agency Comment, attached. Fifteen (15) days are to be allowed for return of OE Form 235 from the State educational agency. A copy of the completed form is to be filed in the Official Case File. In the event this form has not been returned to the Regional Office by the time the application is forwarded to the Regional Commissioner, its absence should be noted in the appropriate space on OE Form 238, Application Transmittal.

14. Copies #7, #8, #9 and #10 (for Title IV this will be copies #6 through #9) will be held and distributed to the Educational Quality Rating Panel when the panel assembles for the review. Prior to the panel review, the copies will be logged out to the appropriate Program Officer to attach amendments, if any, to the application.

III. Application Review Procedures

Title IV and ESA applications will be reviewed in the Regional Offices. All applications will be reviewed and scored.

The criteria to be used in reviewing applications for Emergency School Aid Act grants are delineated in Section 710(c) of the Act. Essentially, these criteria focus on (1) on LEA's need for assistance, (2) the extent and comprehensiveness of efforts to reduce racial isolation in the school district, and (3) the educational quality of the activities for which funds are being requested.

The criteria to be used in reviewing applications for Title IV (CRA) grants are delineated in the Regulations. Essentially, these criteria focus on (1) the need for assistance (2) the concentration of minority students in the targeted school district, and (3) the educational quality of the activities for which funds are being requested.

These criteria will be applied through careful review by OE regional program and contracting officers, non-Federal panels and Regional Office for Civil Rights specialists. Final decisions regarding award or non-award of funds will be made by Regional Commissioners after the Regional Directors' final review.

The application will be reviewed in the following manner and sequence:

1. OCR Verification of Plan (ESA Only)
2. Application Checklist Review
3. Statistical Data Review
4. Preliminary Budget Review
5. Educational Quality Review
6. Pre-Grant Site Review (ESA Only)
7. Administrative Review of Budget
8. OCR Compliance Review
9. RD's Review
10. Program Manager Review

ESA Only

1. OCR Verification of Plan. Before an application can enter the review process, OCR must verify that the school district's desegregation plan fulfills requirements set forth under Section 706(a) and (b) of P.L. 92-318 and, thus, is qualified to apply for assistance.

   In those instances in which OCR determines that an applicant's plan does not fall under any of the criteria as set forth in the legislation, the applicant must be notified officially in writing by the Regional Commissioner. Such notification must be made within five (5) days after OCR determination that the district is not qualified for consideration under the Act. The letter that is to be used for notifying such applicants should be prepared in OCR for the Regional Commissioner's signature. All such letters are to be cleared by the Regional Education Branch Chief of OCR. Letters are to be delivered to the ESA Program Manager for transmittal to the Regional Commissioner, with a copy placed in the Official Case File.

2. Application Checklist Review. Immediately upon receiving the application, the Program Officer shall complete the Application Check Sheet, OE Form 136, 136-1, or 136-4. The Program Officer has prime responsibility for reviewing the following ESA assurances:

LEA's

No.	Title
1	Applicant Not Able to Provide (if pre-grant site review)
11	Minutes of Public Hearing
15	Activities Directed to Minority Group Children (Insures that application reflects these assurances)
20	SEA Recommendations (determines if date meets requirements)

NPO

No.	Title
2	LEA's Recommendation's (determines if date meets requirements)
3	Applicant Not Able to Provide (if pre-grant site review)
11	Advisory Committee Established
12	Consultation With Advisory Committee
13	Advisory Committee Review and Comment
14	Will Consult Monthly with Advisory Committee

Program Officers will contact the applicant immediately by documented telephone conversation to request submission of missing data or replacement of illegible copies of forms, as noted on the Application Check Sheet. A copy of Memorandum of Conversation for Official Case Files, OE Form 236, should be placed in the Official Case File. The Program Officer will be responsible for follow-up with regard to completeness and accuracy of the application. All corrections or additions necessary must be in the form of amendments to Copy #1, which must not be marked-up or altered in any way. The assigned program officer will be responsible for the inclusion in the file of all amendments to the original copy.

3. Statistical Data Review

ESA

Each ESA application will be rated with regard to the school district's need for assistance and the extent and comprehensiveness of its efforts to reduce racial isolation. The evaluation will be computed in accordance with criteria outlined in the Rating Scale for Basic LEA and Pilot Project Grants and the Rating Scale for Nonprofit Groups Projects. (Appendix A). OE Form 246, Worksheet for Computing Statistical Data Rating Scores will be completed by the program officer assigned to the particular application, using the Minority Group Isolation Data in the application.

The worksheet will also be used to determine the eligibility of the Pilot Project proposal, i.e., does the applicant enroll at least 15,000 minority students or are at least 50% of the students enrolled minority group members. In addition the participating schools listed in the application will be checked to make certain that at least 50% of the students enrolled in those schools are minority group members.

Applicants for nonprofit organization grants shall indicate if the supported LEA has submitted an ESAA application. If the LEA has, the Statistical Data Rating for the applicant shall be taken from the LEA's rating. If the LEA has not submitted an ESAA application, the applicant must provide the required statistical data and a program officer will compute a rating for the applicant.

After the worksheet, Form 246, has been completed, the Program Officer will complete Part I, Statistical Data Rating, of OE Form 140, ESA Application Composite Score Form.

Title IV

Each Title IV application with the exception of training institute applications will be rated with regard to the concentration of minority group students of the desegregating or desegregated school boards, school districts or other governmental units which have requested technical assistance from the applicant. The evaluation will be computed in accordance with criteria outlined in the Statistical Criteria for Grants to School Boards, Statistical Criteria for Grants to State Educational Agencies, and Statistical Criteria for General Assistance Centers. (Appendix A)

Part I, Statistical Data Rating, of OE Form 140-1, Title IV Application Composite Score Form, will be completed by the program officer using the Supplementary Questionnaire of the application.

4. Preliminary Budget Review. All ESA and Title IV applications will be reviewed by the program officer and contracting officer prior to the panel review to insure that there are no unallowable costs and in addition, ESA applications will be reviewed for unauthorized activities in the proposed budget. These costs should be deducted, if possible.

   For ESA applications, unauthorized activities consist of those activities not included under the authorized activities in the appropriate section of the Regulations. This question is not asking if funds requested are required to accomplish the purpose of the law, e.g. it would be possible to have an authorized activity which is not related to the reduction of racial isolation. At this point in the review process, you only flag those activities which are clearly illegal. (This question does not apply to Title IV)

   For ESA applications, nonallowable costs are outlined in CFR 45, Appendix A - Grant Terms and Conditions - of the Regulations. Nonallowable costs for Title IV applications are outlined in the Part 100c - Allowable Costs Under Certain Programs - of the OE General Provisions.

5. Educational Quality Panel Review. The educational quality of each application will be reviewed and evaluated in the Regional Office by a four-member non-Federal panel in accordance with the following procedures:

   a. Non-Federal Panel Selection

      Regional Commissioners are charged with the responsibility and authority for selecting panel members. Panel members are to be selected from a list by an established procedure that will preclude bias, preferably by rotation. Selection of panel members will be based on the individual's experience with educational programs and school desegregation. Guidelines for panel selection are set forth below.

(1) Each regional panel for ESA and Title IV shall consist of four members and should include a representative of the community outside of the school; a classroom teacher; a building principal, or an assistant superintendent or a superintendent of schools; and one representative who may be either a curriculum consultant, director of instruction, college or university professor, SEA staff member, or a student. (NOTE: The SEA staff member may not review applications from his/her State.)

(2) At least one panel member and not more than two shall be from the same State as the application being reviewed. No other geographical restriction will be placed on the Regional Commissioner in the selection of panelists.

(3) The regional panels should represent a balance of men and women who have experience and sensitivity relevant to the types of projects being reviewed.

(4) All panels should be of bi-ethnic or multi-ethnic composition regardless of project assignment. (For example, a panel might be composed of a white female classroom teacher, a black male building principal or assistant superintendent of schools, a female Spanish-surnamed university professor and a male non-white community representative.)

ESA Only

(5) A single panel shall review all parts of an individual local educational agency or nonprofit group application for educational quality. The panels that are used to rate Basic LEA grant, Pilot Project and Nonprofit Group Grant applications will not rate Bilingual/Bicultural applications or those having such components.

ESA Only

(6) At least one or more panels which include members with Bilingual/Bicultural expertise should be established in Regional Offices that anticipate Bilingual Project grant applications and other types of projects with Bilingual components. All Basic, Pilot, Nonprofit applications with a bilingual component as well as Bilingual Project applications,must be rated by these panels. These

Bilingual/Bicultural panels must also have the experience and sensitivity necessary to rate the Basic LEA grant and/or Pilot Projects components of the application inasmuch as they will rate the entire application.

(7) Release of Information Regarding Panel Reviews

At no time during or after the review process will the program officer reveal the name of any members of the Educational Quality Review Panel in relation to the review of a specific application.

(a) Requests from the public for inspection and copying of panelists' review forms must be honored; however, panelists' names and/or identifying details must be removed from such forms before releasing them to the public.

Whenever it is necessary to provide completed Educational Quality Panel Review forms for inspection and copying the following notation must be placed on documents prior to their release to the public:

> "Names of parties and certain other identifying details have been removed in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved."

(b) Requests for the names of Educational Quality Review panelists may be honored by making available the comprehensive list of all persons serving as panelists. In no circumstances may such a list identify any panelists as having reviewed any specific application.

(c) All requests from the public for information regarding the Educational Quality Review Panels are to be coordinated by Program Managers. Each Program Manager is required to follow the procedures set forth in the Public Information Regulation published in the Federal Register, August 17, 1973.

b. Training of Non-Federal Panel Members

Regional Commissioners are responsible for training Educational Quality Review Panels and the training should be conducted by the regional program officers. The expertise in the respective offices of the Deputy for School Systems should be utilized in training panels that will review ESA applications for Bilingual/Bicultural grants and Pilot Projects. However, the expertise of the Equal Educational Opportunities staff must be utilized in training all panels because all panels will review the Basic LEA grant portion of all applications. Training sessions for all panels should focus on the following objectives:

- The application of quality criteria to the proposal.
- Application of the rating scales.
- Judging the integral relationship of the proposal to other components of comprehensive LEA programs.

c. Scheduling of Panels

In scheduling applications to be reviewed by a panel an effort shall be made to have all ESA or Title IV applications from an individual State reviewed by the same panel or by a minimum number of panels. Workload and the requirement for Bilingual/Bicultural expertise will make this difficult for ESA but under ideal conditions all applications from one State would be reviewed by one panel. To the extent that it is feasible, the corresponding ESA LEA and the nonprofit group applications should be rated by the same panel. In the case of ESA applications likely to receive pre-grant site reviews, an effort should be made to schedule these for panel review first.

d. Procedures for Panel Reviews

The ESA Program Manager will convene the Educational Quality Review Panel session(s). He/She should introduce the assigned program officer to the panel and explain his/her relationship to the group. The program officer(s) responsible for or familiar with the district(s) will meet with the panel as a resource person only to provide information but will refrain from making any subjective evaluative comments concerning the quality of the application(s) under review. Program Officer(s) will not participate in the review or rating of an application.

State Education Agency staff members may not review applications from their respective States. SEA staff may be present when panels review applications from their State, but are restricted to providing upon request of the panel objective data regarding the application. Only the four panel members are to be present in the panel reviewing room at the time applications are rated.

Conflict of Interest -- Although it is unlikely, there is the possibility that a member of the panel may find before him/her the application from his/her own district or organization, from a district or organization in which he/she was formerly employed, or in which he/she or a member or members of his/her immediate family are to be employed. Should this occur, such members shall immediately disqualify themselves from consideration of the application, informing the assigned program officer of their decision, who will in turn notify the Program Manager. Meanwhile, the remaining members of the panel will proceed with their rating, pending selection of an impartial panelist to rate such application.

In cases where substitution of a panel member is warranted, every effort will be made to keep the composition of the panel consistent with the guidelines. If another panel is meeting in the region at the time, a member from one of these panels will be designated to fill in for that specific application. In anticipation of the event that no substitute panelist is readily available, prior to panel training the Regional Commissioner shall appoint a well-qualified member or members of the Office of Education from a staff other than the Equal Educational Opportunities staff to serve as a substitute. He/She should participate in the panel training prior to the review along with the other panelists.

e. Procedures for Panel Review Rating of Applications

The Non-Federal panel will rate ESA applications with regard to the quality and comprehensiveness of the educational activities and their relationship to the district's desegregation problems. This will be done on the basis of a carefully designed rating criteria scale.

For each ESA application being reviewed, each panel member is to be provided with a complete copy of the application including a copy of the desegregation plan. It is essential that members of the panel understand the desegregation plan which the district is implementing. They should familiarize themselves with the sections that are related to the application under review. The evaluation of the educational component of the application is directly related to the plan. It is for the panel to determine if the education quality of the program or activity components are supportive of the desegregation plan, as well as whether it has the necessary components to accomplish its stated objectives. It is not, however, within the purview of the panel to make value judgments concerning the desegregation plan.

A copy of the Preliminary Budget Review which will flag any unauthorized activities and illegal costs and a copy of the completed Part I of the Composite Score Form (or worksheet) should be attached to each ESA and Title IV application. Amendments to applications should also be attached for panel consideration.

Each application received in the Regional Office will be reviewed completely. The Educational Quality Panel members will independently rate the quality of the application. The categories to be used in judging the quality of all ESA and Title IV applications are listed below:

Needs Assessment
Objectives
Activities
Resource Management
Evaluation
Potential for Replicability (ESA Pilot Projects Only)

Panel members will rate each category separately, according to the points allotted for each. The rating is to be the individual panel member's and his alone.

The specific criteria to be used in determining the quality of applications for ESA applications are delineated in the Quality Criteria for Basic LEA and Pilot Project Grants, the Quality Criteria for Nonprofit Group Projects and the Quality Criteria for Bilingual/Bicultural Projects; and for Title IV applications they are delineated in the Quality Criteria for Grants to School Boards, the Quality Criteria for Grants to State Educational Agencies, the Quality Criteria for General Assistance Centers, and the Quality Criteria for Training Institutes. (Appendix A)

ESA Only

Should any panel member propose during initial discussions of an ESA application that one or more major activities be excluded, the decision to drop the activity will be based on concurrence of a majority of the panel on the recommended elimination. In cases where the panel recommends exclusion of certain components of the project, they should prepare OE Form 142, Recommendation for Deletion of Project Component(s). Before proceeding with the review, the panel must request the program officer to contact the applicant regarding its recommendation for deletion of the component(s). The program officer is to advise applicants by telephone of their option either to accept the panel's recommendation for deletion of the component(s) before scoring the application, or to request that scoring be completed with Component(s) in question remaining in the application. If the applicant accepts the panel's recommendation, the program officer must request him/her to submit an amendment to the application which deletes the component(s) in question. Such amendments must be received within seven (7) days from date of notification. If the applicant does not wish to submit an amendment, he/she must be informed that the application will be rated with the components(s) remaining in the application. (Program Officers must record details of all contacts with applicants regarding panel recommendations for deletion of components on OE Form 236, Memorandum of Conversation for Official Case Files.)

All panel members are to complete a separate Educational Quality Rating Form (OE Form 143) for each specific category under review. (For example, when rating the Activities category of a GAC Title IV application the Educational Quality Rating - Category - Activities must be completed.) Since point assignments differ among the several categories an applicant's final score would not be accurate if the wrong form were to be used. Always check the appropriate box to indicate the type of application being rated. Panel members must be sure that written comments on the rating forms are clear and precise, as they will be a factor in ascertaining the strengths and weaknesses of the program. Upon completion of an individual Educational Quality Rating Form for each specific category,panel members must be sure to complete and sign the Summary (page 1 of the Educational Quality Rating Form) included in their packets.

Program Officers assigned to the review panels will collect the completed Educational Quality Rating Forms from each panelist. Using OE Form 241, Panel Review Summary Sheet, program officers will then record each of the four panelist's scores for each category as indicated on the Educational Quality Rating Form Summary and mark them in the designated columns opposite the panel member's name. These four scores will then be totaled. To obtain the overall Educational Quality Rating Score for an application, program officers will divide the total of the four scores by four (4), the number of panel members. The final score should be given in whole numbers.

As soon as the program officer completes the Panel Review Summary Sheets, he/she should complete the Application Composite Score Form (OE Form 140 for ESA and OE Form 140-1 for Title IV). By computing the ESA applicant's total score, the program officer may determine which applications continue in the review process. He/she will complete the Administrative Review of the Budget for those ESA applicants scoring above the cut-off score. Since there is no cut-off score for Title IV, all Title IV applicants will continue in the review process.

No application reviewed and scored by a panel constitutes and functioning in accordance with this manual may be repanelled without the express written approval of the Associate Commissioner, EEO. However, such required approval will be limited to those cases in which the panelling was incomplete or there were any improprieties relating to the panel. In any such cases, detailed information delineating the reasons for requesting repanelling must be placed in the Applicant's Official Case File. For this purpose, an application revised and resubmitted in accordance with this manual shall be treated as a new and different application.

ESA Only

6. Pre-Grant Site Review. The ESA Program Manager is required to conduct pre-grant site reviews of all grant applications who request funds in excess of $500,000. The review should occur as soon as possible after completion of the Educational Quality Review if the applicant's quality score is in the funding range. For resubmitted applications, at the discretion of the Program Manager the pre-grant site reviews may occur as soon as the applications are received. Where Regional Offices have the manpower capability, ESA Program Managers should initiate pre-grant site reviews of applicants requesting financial assistance from $200,000 to $500,000. The Program Manager, upon the receipt of applications, should compile a list of those applicants eligible for pre-grant site reviews and begin making preparations.

   In those instances in which the Program Manager determines that there is a need for additional information concerning the application or the applicant, a team should be dispatched to conduct a pre-grant site review in order to obtain needed data. There is no application dollar limit when pre-grant site reviews for the purpose of securing additional information are needed. Reviews of this type will be scheduled following the panel review. However, in certain instances, pre-grant site reviews occasioned by the need for additional information should be undertaken immediately after OCR notification that the applicant is qualified for consideration under the Act.

Pre-grant Site Review teams whould comprise an adequate number of personnel from the ESA Office and other Regional OE Offices, as required. It is not necessary for the Pre-grant Site Review to be a joint OCR/EEO visit; however, all Pre-grant Site Reviews should be coordinated with OCR. If the applicant is a local educational agency, an invitation should be extended to the appropriate State educational agency for staff to accompany the team during the review. The ESA Program Manager will select an ESA Program Officer who is familiar with the district's desegregation plan to serve as Team Leader. The ESA Program Manager with assistance from the Team Leader will organize and develop a Pre-grant Site Review Team utilizing personnel from the ESA, OCR (if necessary), and where appropriate, other OE Offices. Each team member regardless of organizational affiliation must be knowledgeable of the applicant's desegregation plan and ESA application.

Once the team has been organized, the ESA Program Manager will notify the applicant district as to the dates of the review and schedule interviews with appropriate applicant personnel.

(a) Instructions for Pre-Grant Review Teams

The ESA Program Manager will initiate the pre-grant site review following the panel review.

The Team Leader will be responsible for conducting the review and the preparation and completion of all reports pertinent to the review.

The Team Leader is responsible for conducting an information training session for all team members prior to site reviews. These sessions should cover the following areas:

- The applicant's desegregation plan
- All aspects of the ESA application
- How to use the review instrument
- Assigning team members to meet with specific applicant personnel
- A schedule of team meetings during the review.

Members of the Pre-Grant Site Review Team will complete OE Form 242, Pre-Grant Site Review Report.

(b) Disposition of Pre-Grant Site Review Report

The Pre-Grant Site Review Report should be submitted to the ESA Program Manager within 24 hours after the review has been completed and will be made part of the Official Case File.

Should any irregularities pertaining to the application or the applicant be discovered as a result of the review, they are to be documented on the Pre-Grant Site Review Report and reported to the ESA Program Manager immediately. The ESA Program Manager will apprise the Regional Commissioner of any such irregularities by noting same on the Application Rating Summary Chart under the column headed "Comments". With regard to such applications, the Regional Commissioner should place them in a Hold status pending resolution of the problem(s), if it is possible to do so before the end of the funding cycle.

7. Administrative Review of Budget. Subsequent to the Panel Review, the Program Officer and the Contracting Officer will jointly review the ESA and Title IV applications to determine if the funds requested are in line with the purposes of the legislation and to determine if the costs are reasonable in relation to the expected outcome. They will also be identifying the cost of those components and activities that were recommended for deletion by the panel. For ESA applications, only those applications scoring above the cut-off score will go through this review process.
Note: All aspects of the budget reviews for Title IV GACs will be the responsibility of the contracting officers.

The program officer and contracting officer will complete OE Form 144, Administrative Review of the Budget, with a recommended budget figure for the Program Manager to review.

In cases in which the Administrative Review of the Budget indicates that funds requested are not related to the purposes of the legislation, the Program Officer must notify the ESA Program Manager of this discrepancy. The OE Form 144, should be completed with detailed reasons why the costs are not related to the purposes of the legislation. In the case of an ESA application, if the Program Manager agrees with the Program Officer's recommendation, such applicants should be given the opportunity to resubmit their applications, along with those applicants below the cut-off score. In the case of Title IV, if the Program Manager agrees with the Program Officer's recommendation, such application will be slated for rejection, although notification of rejection will not occur until grant awards are made.

Guidelines to be used by the Contracting Officer and Program Officer in reviewing ESA applications are provided in the Budget Review Guide in Appendix D. This Guide has been developed jointly by the Contracts and Grants Division and the Bureau of Equal Educational Opportunity, and has been cleared by the Office of General Counsel.

ESA Only

During the administrative review of the budget for ESA applications, the Contracting Officer will also be checking those assurances for which he has prime responsibility. These assurances are as follows:

LEA

No.	Title
1	Applicant Not Able to Provide (if no pre-grant site review)
2	Supplement, not Supplant
3	Funds Represent Additional Cost of Program
4	Coordination with Other Federally Funded Programs
5	Program Administered by Applicant
6	Per Pupil Expenditure
28	No Funds for Religious Worship

NPO

1	Supplement, not Supplant
3	Applicant Not Able to Provide (if no pre-grant site review)
4	Funds Represent Additional Cost of Program
5	Coordination with Other Federally Funded Programs
6	Program Administered by Applicant

NPO	Title
15	No Funds for Religious Worship
16	Nonprofit Status

8. The Office of Civil Rights Compliance Status Review. The Office for Civil Rights (OCR) will review the Title IV and ESA applicant district's status of compliance with assurances which relate to discrimination. For Title IV applications, OCR Report on Applicant's Status, OE Form 273, is to be completed and returned to the Regional Control Unit within 30 days of receipt of copy #4 of the application. The Compliance Status Report for an ESA application is to be prepared in the form of a memorandum from the Regional Director of the Office for Civil Rights to the Regional Commissioner. The memorandums must be received in the ESA Program Manager's Office no later than three(3) days after transmittal of Rating Summary Charts to the Regional Commissioner through the Director of School Systems. The ESA Program Manager will flag all applications on the Rating Summary Chart that are transmitted to the Director of School Systems without the OCR Compliance Status Report having been received in the ESA office. Applications are not to be considered for funding without the OCR Compliance Status Report. If an application has not been cleared by the time the first funding decision announcements are made it will be placed in "legal hold" until the OCR report is received. ALL OCR COMPLIANCE REPORTS FOR APPLICATIONS IN LEGAL HOLD MUST BE RECEIVED BY APRIL 8.

ESA Only

During the compliance review, OCR will be checking the listed LEA assurances for determination of nondiscrimination. OCR has no responsibility for NPO assurances, although they will still be checking for compliance with Title VI, CRA.

LEA

No.	Title
8	Advisory Committee Established
9	Consultation with Advisory Committee
10	Advisory Committee Review and Comment
11	Public Hearing
12	Will Consult Monthly with Advisory Committee
13	Student Advisory Committee Formation
14	Consultation with Student Advisory Committee
15	Activities Directed to Minority Group Children

LEA

No.	Title
22	Transfer of Property to Nonpublic Schools
23	Minority Group Personnel Practices
24	Assignment of Children to Classes
25	Discrimination Against Children
26	Compliance with Waiver of Ineligibility

9. Regional Director's Review. The HEW Regional Director (RD) will review all ESA and Title IV applications received and all proposed funding decisions regarding these applications.

   a. Initial Application Review

   The RD will be given 30 calendar days subsequent to receipt of applications in their offices to complete their reviews. After the Program Officer has completed the Application Checksheet, at the request of the RD or at the discretion of the RC he/she will begin preparing Part A of the Application Abstract for the RD's review. A copy of the completed Part A should be forwarded to the RD no later than five (5) days after receipt of the application, but the RD's 30-day review period begins the day after he/she receives a copy of the application.

   The RD will submit comments within the 30-day period through the Regional Commissioner to the ESA Program Manager. However, the Regional Director's response is optional; it is required only if the RD has recommendations or comments for input to the program office review process.

   The Regional Director's concurrence with the applications will be assumed if the Regional Commissioner does not receive comments from the RD during the 30-day review period.

   During the 30-day review period, an RD:

   (1) May request that program officers or other sources provide information regarding grant applications;

   (2) Will attempt resolution with the regional program office of any differences as to provisions of the grant proposal; and

   (3) Will submit to the program officer a memorandum of comments he wishes considered in the decision-making process.

The ESA program office will identify its differences with the RD at the earliest possible point in the review and will initiate discussions with the RD staff to resolve them. Differences will be based on comparison of the proposed award to the application, as commented on or as concurred with by the RD.

When discussion with the program office is not progressing to the RD's satisfaction, the RD is to attempt a settlement with the Agency Head. The RD may--for an unreconcilable difference--request the office of the Deputy Under Secretary for Regional Affairs to seek advice from appropriate staff in the Office of the Secretary (including A, P, C, H, and AS/E) with respect to settlement of the differences. That advice could lead to a decision to refer the matter to the Under Secretary or the Secretary for resolution. Disagreements which are referred to the Office of the Secretary should be handled in the most expeditious manner possible; prolonged delays are unacceptable. Only those disagreements which involve exceptional cases will be referred directly to the Under Secretary or Secretary.

The Regional Director's comments are to be entered into the review process at the point at which the ESA Program Manager coordinates all ratings, reviews and comments regarding each application for preparation of the Application Rating Summary Charts. All comments received from the Regional Director are to be placed on the Application Rating Summary Chart, under the column "Regional Director's Comment".

b. Review of Proposed Funding Decisions

The Regional Commissioner's draft Decision Memorandums will be forwarded to the RD for review with OE Form 247 Transmittal of Proposed Funding Decisions for RD Review attached. These Memorandums must be transmitted at least 18 days prior to the dates published in the Federal Register for announcement of funding decisions. These draft Decision Memorandums will provide the RD with the required listing of proposed notices.

Regional Directors will have 15 working days for review of Draft Decision Memorandums. The Regional Directors' concurrence will be indicated by sign off on OE Form 247 Transmittal of Proposed Funding Decisions for RD Review, and return to the Regional Commissioner who will transmit the form and the Memorandums to the ESA Program Managers.

The Regional Director's concurrence will be assumed if--by the end of the 15-day review period--the RD has not notified the Regional Commissioner of his concurrence or of his request to delay the award a few days while additional information is being obtained or differences are resolved.

If the Regional Director has not objected to an application during the initial 30-day review period, he may not hold up an award unless unusual circumstances have developed during the intervening period. In such instances, the RD's objections will be communicated orally to the Regional Commissioner and confirmed by memorandum.

10. Program Managers' Review

Program Managers are responsible for preparing recommendations to the Regional Commissioners for action to be taken on each application received. The Program Manager is required to review the Regional Director's comments, SEA comments (ESA only), Statistical Data, Educational Quality Panel Ratings, Administrative Review of the Budget, the OCR Compliance Status Review and the pre-grant site review, if any (ESA only).

After thorough consideration of these reviews, the Program Manager will then recommend either the funding level for an applicant or other action including resubmission, OCR determination of ineligibility because of applicant's plan or compliance status. In instances in which RD comments indicate problems, the Program Manager will place the applicant in "Hold pending RD's release."

ESA Program Managers will prepare separate Application Rating Summary Charts (OE Form 139) for each of the four (4) types of ESA applications (Basic LEA grants, Bilingual Project grants, Pilot Project grants, and Nonprofit Organization grants), for each State in the Region; and for each of the four (4) types of Title IV applications (Grants to School Boards, Grants to SEAs, General Assistance Centers, and Training Institutes). Each application is to be listed on the chart in descending order based on its composite score which will be derived from all of its numerical ratings. All applications received for ESA and Title IV funds, including those recommended for resubmission, rejection, fiscal hold, or as determined ineligible by OCR, must be shown on this chart. Recommended funding levels indicated on these charts should be rounded to the nearest dollar.

At the discretion of the Regional Commissioner the Program Manager or appropriate Program Officer will then complete Part B of the Application Abstract, indicating the reasons for each budget cut and recommended funding level, and the results of the pre-grant site review. The entire Application Abstract, with Parts A and B completed shall be attached to a completed Application Transmittal which, along with the Application Rating Summary Charts, must be forwarded to the Director of School Systems for his/her concurrence.

IV. Funding Decision Procedure

After the Director of School Systems has signed his/her concurrence to the Application Transmittal or attached his/her comments or objections, the Director of School Systems transmits the Application Abstract, Application Transmittal and Application Rating Summary Charts, along with any other supporting data requested, to the Regional Commissioner for review and action.

After completing these reviews, the Regional Commissioner will formulate his/her proposed funding decisions for ESA Basic, Pilot, and Nonprofit grants and Title IV applications or recommendations in the case of ESA Bilingual applications. If the Regional Commissioner's proposed or recommended funding level differs from that recommended by the Program Manager, the Regional Commissioner should note any additional budget changes on the Application Abstract.

A. Funding Decision Procedures for Basic, Pilot and Nonprofit Applications

1. Regional Commissioners are to prepare Proposed Funding Decision Memorandums for each type of ESA application (Basic, Pilot, Nonprofit), by State.
2. An Application Rating Summary Chart for each of the types of applications must be attached to each Memorandum. All Proposed Funding Decision Memorandums must include detailed reasons for recommendations of resubmission, rejection, fiscal hold, or OCR determination of ineligibility.
3. The Regional Commissioner will forward the Proposed Funding Decision Memorandums to the Regional Director for his final 15-day review. Copies should be transmitted immediately to the Contracting Officer through the Program Manager so that negotiations may begin. Information copies with Application Rating Summary Charts attached should be transmitted simultaneously to the Associate Commissioner, BEEO.
4. Upon receipt of the RD's concurrence and sign-off on OE Form 319 following completion of the final review, the Regional Commissioner will prepare the Final Funding Decision Memorandums covering all ESA Basic, Pilot and Nonprofit Organization applicants.
5. Final Funding Decision Memorandums, OE Form 320 will be prepared in the same manner as the Proposed Funding Decision Memorandums.
6. After completion of the Final Funding Decision Memorandums, the Regional Commissioner will transmit the Memorandums to

the Program Manager and the Contracting Officer who will implement the notification procedures, which are outlined in Part V of this Manual.

7. Regional Commissioners will transmit information copies of the Final Funding Decision Memorandums to the Regional Directors and to the Associate Commissioner, BEEO at the same time the Memorandums are sent to the ESA Program Manager.

B. Funding Decision Procedures for Title IV Applications

1. The Regional Commissioner will prepare a list of projects proposed for approval subject to the availability of funds for each of the four types of Title IV applications (Grants to School Boards, Grants to SEAs, and Training Institutes). An Application Rating Summary Chart for each of the types of applications must be attached to each list.

2. The Regional Commissioner will forward the approved project list with the Rating Summary Charts attached, to the Regional Director for his/her final 15-day review.

3. After the RC has received the RD's sign-off he/she will prepare the lists of approved projects and submit them to Washington for national rank-ordering within each project category.

4. A committee consisting of Washington staff and appropriate regional representation will compile the rank-order lists and determine how far down each of the four lists it is possible to fund before available monies are exhausted. If necessary, funds will be reallocated among project categories in accordance with pre-established procedures.

5. Washington will then send a comprehensive list to each Regional Commissioner of his/her approved projects which are fundable. The RC will immediately prepare Final Funding Decision Memorandums and transmit copies to the Contracting Officer who will then begin negotiations.

C. Funding Decision Procedures for Bilingual Applications

1. Regional Commissioners will prepare OE Form 239-1 Recommendation Memorandums, for Bilingual project applications. These Memorandums with the Application Rating Summary Charts attached will be sent to the appropriate program office under the Deputy for School Systems.

2. The Final Decision Memorandums for Bilingual project applications will be developed by the delegated authority within the Deputyship for School Systems who will be responsible also for

effecting the 15-day Regional Director's Review of Proposed Funding Decision Memorandums. A copy of the Proposed Funding Decision will be forwarded to the Regional Commissioner, who will forward it to the Regional Contracting Officer so that negotiations may begin.

3. The Deputy for School Systems will, after completion of the Regional Director's review, transmit the Final Decision Memorandums to the Regional Commissioners.

4. All Congressional Notification and funding decision announcements to Bilingual grant applicants will be made from the Regional Offices.

V. Notification Procedures

A. Negotiations

ESA Only

The Regional Commissioner shall transmit copies of the Draft Decision Memorandum to the Program Manager and the Regional Contracting Officer at the same time he transmits it to the Regional Director for his/her final 15-day review and sign off. The Program Manager is responsible for preparing PGIS forms for all approved applications on the Draft Decision Memorandum which must be completed before negotiations can begin. If the RD did not comment on or raise any objections to an application proposed for funding, then the Contracting Officer can begin negotiations prior to the RD's final concurrence. In the event that the RD raised objections to an application, the Contracting Officer should wait for the final RD concurrence before negotiating. Negotiations are the sole responsibility of the Contracting Officer.

As soon as the RD's 15-day review is completed, the Regional Commissioner shall transmit copies of the Final Decision Memorandum to the ESA Program Manager and the Contracting Officer. The Contracting Officer may now complete negotiations, prepare the award documents and sign them.

Title IV Only

Negotiations on Title IV contracts/grants cannot begin until after the applications have been rank ordered in Washington and the Regional Commissioner has prepared the Final Decision Memorandums. After the Contracting Officer completes negotiations, he/she will prepare the award documents and sign them. A copy of the Final Decision Memorandum Form OE-320, should be immediately forwarded to the Associate Commissioner.

B. Resubmit Fiscal Hold and Ineligible Notification

As soon as the Draft Decision Memorandums have been transmitted to the Regional Director, the Regional Commissioner will notify in writing all applicants whose applications have been recommended for resubmission, placed in fiscal hold, or determined by OCR to be ineligible. A copy of each such notification letter must be sent to the appropriate Chief State School Officer.

ESA Program Managers will prepare notification letters to ESA applicants who may resubmit or who have been placed in fiscal hold, and they will prepare rejection letters to Title IV applicants whose applications have been rejected. All notification letters will be prepared for the Regional Commissioner's signature. Letters to applicants who have been determined by OCR to be ineligible will be prepared by the Office for Civil Rights for the Regional Commissioner's signature.

Notification letters to such applicants must not be form letters, but will be personalized responses giving clear and specific reasons for the action recommended. Each letter must include constructive advice to the applicant concerning his efforts to obtain a grant. Technical assistance must be offered to ESA applicants who are advised to resubmit their applications. Suggested formats for ESA Resubmission and Fiscal Hold notification letters are included on the following pages.

ESA Only

C. Technical Assistance for Applicants Advised to Resubmit Applications

All applicants advised to resubmit their applications must be offered technical assistance in redesigning their proposals. Program Managers will develop specific plans for technical assistance and will assign program officers to work with clients who are advised to resubmit their applications. Program officers must give the applicant whatever help is needed.

Program Officers must make detailed records of all contacts between the ESA office and the applicant including any and all suggestions, recommendations and the like, made to the applicant regarding the proposal. Use OE Form 236, Memorandum of Conversation for Official Case File, to document all contacts made.

D. Notification of Rejection Applications

For ESA applications, no reject letters may be sent prior to giving the applicant a chance to resubmit. Letters notifying Title IV applicants that their applications were rejected must be sent at the same time the award letters are mailed. A suggested format for reject notification letters is included.

SUGGESTED NOTIFICATION LETTER FORMAT FOR APPLICATION RESUBMISSION

Dear Superintendent ________________________:

We have received and reviewed your application for assistance under the Emergency School Aid Act.

Based upon our review of the information submitted, we regret to inform you that we are unable to fund your application at this time for the following reason(s):

> Specify reason(s) outlined in inserts
> A - D or combination of A - D as
> appropriate

In view of the above, we are returning it to you for revision and resubmission at your option. At your request, this Office will be happy to provide your district with technical assistance for purposes of resubmitting your application. The deadline for submitting revised applications is ________________________.

We appreciate the interest and commitment you have shown in applying for ESA assistance.

Sincerely yours,

Regional Commissioner

INSERT A - UNAUTHORIZED ACTIVITIES

Certain activities which your district proposes to carry out with assistance made available under the Act

(1) are not authorized under Section 185.12 of the ESAA Regulations. (Specify the activities included in the application that are not included in (a)(1)-(12)

and/or

(2) fail to satisfy the requirement of Section 185.12(a) that such activities be directly related to and necessary to the implementation of an eligible plan.* (Specify which activities are not so related and necessary.)

INSERT B - INCOMPLETE APPLICATION

Materials submitted in support of your application fail to satisfy the requirements of Section 185.13 of the ESAA Regulations, in that....(Specify which subsection is not met.)

INSERT C - LOW SCORE ON OBJECTIVE CRITERIA

Your district's need for assistance (and/or) effective net reduction in minority group isolation, as measured by objective criteria referred to in Section 185.14(a)(1) and (2), and as reviewed by our staff and by the rating panel, received so low a score that we cannot support your application from the limited ESAA allotment grants to districts in (name of state).

INSERT D - LOW SCORE ON EDUCATIONAL AND PROGRAMMATIC CRITERIA

On the basis of the educational and programmatic criteria set out in Section 185.14(b), a number of applications in (name of State) were rated higher than that submitted by your district. Your district's rating was very low as compared with other districts in the State.

Areas found to be deficient by the Educational Quality Panel which reviewed your application include (Specify: needs assessment (Section 185.14(b)(1), statement of objectives (Section 185.14(b)(2), activities (Section 185.14(b)(3), resource management (Section 185.14(b)(4), and/or evaluation (Section 185.14(b)(5). Describe the deficient areas in the degree of detail gone into by the Regulations.)

*(This requirement does not apply to applications for pilot projects under Subpart C of the Regulations.)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

SUGGESTED FORMAT FOR ESA FISCAL HOLD

Dear Superintendent

We have received and reviewed your application for assistance under the Emergency School Aid Act.

The fact that you submitted an ESA application demonstrates both a commitment on your part to successful desegregation and a need for assistance in coping with the problems that arise. However, because of the limited funds available to your state at this time for applications for the 1974-75 ESA program, we were not able to fund every school district that applied.

On the basis of the decision criteria used to determine awards, the applications from your State that were funded were rated higher than that submitted by your district.

There is a possibility that additional money will become available after reallocation of funds. Therefore, your application has been placed in fiscal hold for consideration in the reallocation.

If you desire more information concerning this decision contact the program officer assigned to your application at the following address:

Name
Address
Telephone

Sincerely,

Regional Commissioner

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

SUGGESTED FORMAT FOR ESA APPLICATION REJECTION LETTER, FOR THOSE THAT HAD BEEN PLACED IN FISCAL HOLD

Dear Superintendent

As you have already been informed, your application was placed in fiscal hold pending reallocation of ESA funds.

The unobligated monies were reallocated in accordance with the Emergency School Aid Act to States with unmet needs. All qualified applicants in your State were funded in rank order until the monies were exhausted. Unfortunately, your application did not score high enough to be funded before the monies were exhausted.

We appreciate the interest and commitment you have shown in applying for ESA assistance.

Sincerely,

Regional Commissioner

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

SUGGESTED FORMAT FOR TITLE IV APPLICATION FISCAL HOLD LETTER

Dear Sir:

We have received and evaluated your application for assistance under Title IV of the Civil Rights Act.

The fact that you submitted a Title IV application demonstrates both a commitment on your part to successful desegregation and a need for assistance in coping with the problems that arise. However, because of the limited funds available in the project category under which you applied, we were not able to fund every qualified applicant.

Based upon our review of the information submitted, we regret to inform you that we are unable to fund your application at this time.

There is a possibility that additional money will become available after reallocation of funds among the four Title IV project categories. Therefore, your application has been placed in fiscal hold for consideration in the reallocation, which will take place around April 1, 1974.

If you desire more information concerning this decision, contact the program officer assigned to your application at the following address:

Name
Address
Telephone

Sincerely,

Regional Commissioner

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

SUGGESTED FORMAT FOR APPLICATION REJECTION LETTER

Date:

Dear Superintendent:

We have received and evaluated your revised application for assistance under the Emergency School Aid Act/ Title IV of the Civil Rights Act.
Based upon our review of the information submitted, we regret to inform you that we are unable to fund your application.

The educational quality of your proposed program and the needs you described in the application were not sufficient to merit the award of assistance at this time.

We appreciate the interest and commitment you have shown in applying for ESAA /Title IV assistance.

Sincerely,

Regional Commissioner

E. Award Notifications

The Regional Contracting Officer (RCO) has sole responsibility for notification of application approvals. Notification procedures for approved applications are set forth in OE Directive 2-35 (Revised) February 1973.

Upon signing the award document, the Contracting Officer transmits a copy of the cover sheet by telecopier to the Office of Congressional Liaison (OCL) who is given 48 hours upon receipt of the documents to notify members of Congress. As soon as the 48-hour period has expired, the Contracting Officer will mail the award documents to the grantees.

NOTE: It is mandatory that upon completion of transmission to OCL, the RCO then sends two copies of the cover sheet to the individual or organization providing public information services at the regional office.

- Upon receipt of notification that an award has been made, the regionally located public information individual or organization will determine its news value, if any, and arrange for preparation of a press release, for coordination with proper program officers, and for actual release. In no case will the press release be issued prior to two days after the date on which the notification was received by the Office of Congressional Liaison.

- At the end of the 48-hour waiting period, copies of the cover sheet will be distributed by the RCO via normal mail distribution channels, as follows:

-- Immediate Office of the Commissioner	2 copies
-- Office of Legislation	20 copies
-- OE Regional Commissioners	2 copies
-- Deputy Commissioner for School Systems	2 copies
-- Chief State School Officer as appropriate of the State concerned	2 copies

ESA Program Managers and staff are not to make any commitments to applicants with regard to reimbursement for pre-award costs (i.e., costs incurred prior to and in anticipation of project awards). The only officials empowered to authorize grantee costs (including, but not limited to, pre-award costs) for the decentralized ESAA and Title IV activities are the Regional Commissioners and the Regional Contracting Officers. No ESA program officials, either in BEEO or in the Regional Offices, hold this authority. ESA Program Managers and staff must be aware that unauthorized commitments of this nature will constitute grounds for adverse action.

VI. Reallocation Procedures (ESA Basic, Pilot and Nonprofit Projects Only)

After the award documents for Basic, Pilot and Nonprofit projects have been signed and the funds have been obligated, the Regional Commissioner will submit for each category, Basic, Pilot and Nonprofit, the original state apportionment, obligations to date, the unobligated balance, and amounts for projects approved but in fiscal hold. All legal problems must be cleared up prior to submission of reallocation data with all applicants being either eligible or ineligible. The cummulative balance of unobligated monies from the original State allocations will be reallocated among the States with unmet needs in proportion to the number of minority students in each State, until either all unmet needs are satisfied or the available dollars are exhausted.

Not prior to May 1st, BEEO will return the reallocation data to the Regional Commissioners for their final funding decisions. Once the final decisions have been made, the Contracting Officer will proceed with the negotiations and award procedures for the approved applications. At the same time the grant awards are sent to the grantees, the Regional Commissioner will notify those applicants could not be funded because all the money from their state's allocation had been exhausted.

VII. Maintenance of the Official Case File

Maintenance of a complete and accurate Official Case File in the Regional Control Unit for each application received is imperative. The Official Case File must be current at all times because it is the single, comprehensive record pertaining to a particular application. All official Case File jackets are to be six-part filing folders with hard-board covers. Each of the parts will contain specific data relevant to the application.

The Regional Control Unit shall have final responsibility for maintenance of the Official Case File in a current and orderly condition. Part I of the Official Case File Check Sheet (OE Form 149), is to be completed by a Program Officer before the Official Case File is forwarded to the Director of School Systems. Part II of the checksheet will be completed by the Control Unit.

A. Contents of File

(1) Part 1 - Application

    (a) Copy #1 of the application with original signatures

    (b) OCR Verification of Applicant's Plan Status Form (ESA Only)

    (c) Application Check Sheet

(2) Part 2 - Compliance Data

    (a) Desegregation Plan(ESA only) or

    (b) Court Order, or order of Agency or official of competent jurisdiction (ESA only),

    (c) Copy of school board resolution or evidence of final official action of approval and agreement to implement a plan contingent upon award of assistance (ESA only)

    (d) OCR Compliance Review Report(s) (ESA and Title IV)

    (e) Other related materials (complaints, etc.)

(3) Part 3 - Application Review

    (a) Completed SEA Transmittal Form (ESA only)

    (b) SEA Comments, if any (ESA only)

(c) Completed Regional Director Transmittal Form

(d) Regional Director's Comments, if any

(e) Application Composite Score Form, with Statistical Data Worksheet attached (No Worksheet for Title IV)

(f) Completed Preliminary Review of Budget Form

(g) Completed Non-Federal Educational Quality Review Panel's Evaluation Forms

(h) Completed Panel Review Summary Sheet

(i) Completed Administrative Review of Budget Form

(j) Pre-Grant Site Review Report, if applicable (ESA only)

(k) Rating Summary Chart

(l) Application Transmittal, signed by Director of School Systems

(m) Director of School Systems Comments, if any

(n) Transmittal of Proposed Funding Decisions for Regional Director Review

(o) Regional Commissioner's Final Decision Memorandum (in the case of Bilingual, this would be the Associate Commissioner's Decision Memo)

(4) Part 4 - Post-Award Information

(a) Grant Award Document with negotiated budget attached

(b) Application Abstract

(c) Student Advisory Committee Data (ESA only)

(5) Part 5 - Communication and Correspondence

(a) Case File Check Sheet

(b) Memorandums of all telephone conversations related to negotiating application modifications, requesting additional data, and the like

(c) Copies of all outgoing and incoming correspondence concerning technical assistance to applicant and application negotiation

(d) General correspondence related to the applicant/grantee

(e) General background information and/or miscellaneous papers

(6) Part 6 - Reports

(a) OCR Statistical Reports (ESA only)

(b) Grantee's Quality Monitoring/Review Reports

(c) Program Officer's Monitoring Visit Reports

(d) Grantee's Final Reports

(e) Commissioner's or Outside Agency Evaluative Report

(f) Other required Reports

B. Procedures for the Intake of Review Forms

Upon completion of each review, all copies of applications, with review and/or rating forms attached, will be returned to the Regional Control Unit with the exception of the OCR Copy # 4 which should be retained in OCR for reference file copy. The Regional Control Unit will log in copies of applications on the Master Control Log as they are returned to the Unit. Each review or rating form is to be stamped with date and time of receipt in the Regional Control Unit. The Regional Control Unit will place all review and rating forms and amendments in the Official Case File (which must contain Copy #1 of application with all required signatures).

After the panel review is completed and the four copies of the application have been returned to the Control Unit, one of the copies of each application must be forwarded to BEEO/Central Control Unit.

C. Procedures for Transmittal of Official Case Files

Whenever the Official Case File must leave the Control Unit, it is to be logged out on the Master Control Log. The Official Case File will be logged out to the appropriate Program Officer prior to the Program Manager's review to insure that the files are complete. It will pass from the Program Officer to the Program Manager to the Director of School Systems. After the Director of School Systems' review the case files will be returned to the Control Unit.

D. Post-Award Control Procedures

Subsequent to negotiations, a copy of the award document with the negotiated budget attached or a copy of the resubmit/reject letter must be placed in the Official Case File.

VIII. Monitoring Procedures for Emergency School Aid Act (ESAA) Grants and Title IV (CRA) Grants/Contracts

A. General

Monitoring refers to the systematic and periodic process of reviewing, evaluating, and reporting the programmatic and fiscal operations of an approved, funded project. The primary objectives in monitoring ESA Title IV grants are set forth below:

-- To determine whether programs, projects, or activities are being implemented as set forth in the grant application which has been approved and funded.

-- To determine whether the grantee is in continuous compliance with the program regulations and requirements.

-- To determine what action will be taken on any identified problems, possibly including technical assistance by EEO staff or by other components of the Office of Education.

-- To collect and analyze data on ESA/Title IV projects which may be used as a resource for overall program planning and evaluation.

B. Delineation of Responsibilities for Monitoring ESAA/Title IV Grants

1. The Associate Commissioner for Equal Educational Opportunity is responsible for development and dissemination of uniform, nationwide policies and procedures for monitoring ESA/Title IV grants.

2. Regional Commissioners are responsible for implementation of the monitoring policies and procedures for ESAA/Title IV grants, as established by the Associate Commissioner for Equal Educational Opportunity.

3. Role of the ESA Program Manager

   a. The ESA Program Managers are responsible for supervision of regional program officers in their execution of the monitoring process. He/she should assign the responsibility for continuous monitoring of each grant to a specific program officer immediately upon notification to applicant of the grant award.

b. In addition, ESA Program Managers are responsible for preparation of the summary quarterly reports on monitoring activities, which the Regional Commissioners will submit to the Associate Commissioner.

c. In the event that it is necessary to take formal enforcement proceedings against a grantee as a result of monitoring procedures, the ESAA Program Managers may be asked to recommend proper corrective action to the Regional Commissioners and to the Office of General Counsel (OGC). ESAA Program Managers are responsible for providing any supportive data for such cases which is requested by the Regional Commissioner or OGC.

4. Role of the Regional Program Officer

a. The regional program officers will carry out all aspects of the monitoring process for each assigned grant, unless assistance is requested from Washington by the Regional Commissioner.

b. He/she is responsible for monitoring the progress of the program, the fiscal administration of the grant, and the grantee's compliance with the regulations for the duration of the project period.

c. Each program officer is responsible for conducting at least two site reviews of each of the grantees which he/she is monitoring. Following each such review, he/she will submit to the ESAA Program Manager and to the grantee a written report (in the form of a follow-up letter) containing the results of the site review.

d. He/she will also analyze the incoming quarterly reports submitted by grantees which he/she is monitoring. Information contained in those reports and information gained from the site reviews will be included in the region's quarterly summary reports.

e. Regional program officers will be responsible for any follow-up activities on problems identified either as a result of site reviews or the examination of the grantee's quarterly reports.

5. ESAA/ Title IV Grantee's Responsibilities

a. Each grantee will prepare and submit a report each quarter on program progress and a separate quarterly report on financial status.

b. In addition to routine reporting, the grantee is to inform the regional office immediately of any problems, delays, or adverse conditions which prevent or delay the achievement of program objectives or the fulfillment of time schedules for major events. Such disclosures are to be accompanied by a statement of the action taken or contemplated to be taken and any Federal assistance needed to resolve the situation.

c. Each grantee is responsible for providing data which is necessary for site reviews when requested by regional program officers. Such data may include personnel and any other records pertinent to the grant project.

d. Each grantee is required to discuss with appropriate OE officials and negotiate any proposed changes in the scope of work. Information as to the designated OE officials will be made known in writing to the grantee.

C. Grantee Reporting Requirements

1. The program officer assigned to monitor the project will contact the grantee by mail immediately following notification of the award. This letter will explain the grantee's monitoring responsibility and the types of reports that must be submitted to the regional office. Instructions for preparing reports, including the schedule for their submission to the regional office and copies of the necessary forms, are to be enclosed with the letter. (See Appendix E for sample copies of the letter, forms, and instructions.)

2. All grantees are required to submit a program progress report and a financial status report each quarter. OE Form 275, Quarterly Program Progress Report, and HEW Form 601T, Financial Status Report, are to be used for these reports.

3. Each grantee shall submit the two reports to the regional office each quarter in accordance with the following schedule:

Reporting Period	Date Report Due In Regional Office
July 1 - September 30	October 30 , 1974
October 1 - December 31	January 30 , 1975
January 1 - March 31	April 30, 1975
April 1 - June 30	July 30 , 1975

4. Each ESAA grantee is required to submit two final reports to the regional office. One report, the Final Program Progress Report, will incorporate information in the quarterly reports and the results of the grantee's final evaluation of the project. The other report will be a final fiscal report which will provide an accounting of all monies received under the ESAA grant. Grants may not be closed out prior to receipt of the two reports described above. (See Chapter IX of this section entitled, "Grant Closeout Procedures.")

D. Specific Monitoring Procedures

All ESA and Title IV grants/contracts are to be monitored in accordance with the instructions set forth in this chapter. The monitoring process shall be continuous throughout the grant period. Monitoring of grants will include both the review of quarterly and annual reports received from grantees and site reviews of the projects.

1. Review of Grantee Reports

   a. The regional program officer assigned to monitor an ESA/Title IV grant is charged with ensuring that all grantee reports are submitted to the regional office as scheduled. He/she should keep a record of all submissions and contact the grantee in the event a report is not received according to the schedule.

   b. Regional program officers will review each quarterly progress and financial report as soon as possible after receipt. These reports are to be analyzed as set forth below:

      1) Quarterly Program Progress Report -- Compare the attainment of major events and/or milestones as reported in the Quarterly Program Progress Report (OE Form 275) with the Schedule of Implementation Plan and/or milestones in the approved application to determine program irregularities and/or implementation problems.

      2) Quarterly Financial Status Report -- Review the Financial Status Report (OE Form 275) and analyze the breakout of monies expended by comparing these figures with the funding allocation and cost breakouts in the approved budget. If there are any differences or discrepancies, they should be summarized in a memorandum to the regional contracting officer. All Financial Status Reports with memorandum attached, if any, should then be forwarded to the contracting officer within ten days of receipt of the quarterly financial report.

c. If the grantee indicates in the reports a need for change in budget estimates which require OE approval, the program officer reviewing the report should advise the grantee to submit a request for budget revision to the regional office. The grantee shall use the same budget form as was submitted with the original application. (For LEAs, this is Section IV, Budget Outline, OE Form 116-1; for NPOs, this is Section V, Budget, OE Form 116). (This is in accordance with OE General Provisions §100a.29(6).) They should attach a memorandum explaining the reasons for the needed change.

Grantees' requests for budget revisions are to be reviewed by the program officer upon receipt. OE Form 277, Action Memo Concerning Grantee's Request for Budget Revision is to be completed for each request. The program officer will then forward the request for budget revision with the Action Memo to the regional contracting officer who will, in turn, act on the request and notify the program officer-through the program manager-of his decision. The program officer will then contact the grantee and inform him as to whether or not the request has been approved. The program officer will place any budget revision document in the official Case File in the Regional Control Unit and forward a copy to the Central Control Unit of BEEO/Washington. For guidelines on the extent of revision allowable and related matters, consult the OE General Provisions, §100a.29 - Budget Revisions and Minor Deviations.

All requests by grantees for changes, and amendments to approved grants shall be submitted on the same form as the original application, submitting only those affected pages of the application. (In accordance with the OE General Provisions §100a.40(d).)

2. Procedures for Site Reviews

   a. General

      1) Monitoring of ESAA/Title IV grants will include a minimum of two site reviews which are mandatory during the grant project period.

      2) The first review will be made within the second quarter of the grant period. This review should be undertaken as soon as possible following analysis of the first quarterly program progress and financial reports. The purpose of this review will be to monitor the initial stage of project implementation.

      3) The second site review should be scheduled immediately following analysis of the second quarterly report. All aspects of the grant project should be in place prior to the second review. Thus, this review will enable the program officer(s) to observe the status of the

actual project operation. The second review will also provide an opportunity to follow up on recommendations made during the initial review and, if necessary, to advise the grantee of the need for, mid-grant corrections and/or revisions in the project.

4) The two mandatory site reviews will be made in accordance with the schedule below:

Initial Site Review	no later than November 20
Second Site Review	no later than February 20

Schedules for the fall and winter reviews should be set as early as possible in September so that grantees and the regional office staff will be able to plan more effectively for the site reviews.

5) Additional site reviews will be scheduled by the regional office, as warranted. For example, site reviews will be made in those instances where quarterly reports subsequent to the first two reports indicate that the grantee is experiencing major problems which prevent timely completion of scheduled events.

6) No further site reviews are to be made if the information obtained during the two mandatory site reviews and from quarterly reports indicates that (1) the project is operating on schedule, (2) the program being implemented is that which is set forth in the approved application, and (3) there are no major problems with project implementation.

b. Plans Preceding the Review Visit

1) The ESA Program Manager will be responsible for implementing all ESA/Title IV site reviews. He/she will determine the number of staff members needed to make the review. The regional program officer assigned to monitor the grant must participate in the site review. Additional staff should be designated by the ESA Program Manager to work with the assigned program officer to monitor specific aspects of a project which are related to their special expertise and/or training. For example, persons with bilingual expertise or persons knowledgeable about nonprofit groups should

accompany program officers on site reviews of such ESA projects.

2) Plans for the review will be made by the program officer assigned to the grantee (who will be the team leader if others are also assigned to assist in the review) and approved by the ESA Program Manager. Such plan will include all preparation needed to complete the Site Review Plan (OE Form 278). In the space for "Purpose of Review," he/she should indicate whether it is a special review. If the reviewer(s) will be looking at a particular problem, that should also be described. The specific assignments and appointments of the reviewer(s) should be indicated in the appropriate spaces. One copy of the Site Review Plan for each review will be furnished each team member, and copies will be made for such other regional office administrative needs as required by the ESA Program Manager to maintain adequate information and control over travel and assignment of program officers.

3) After the team members have been designated and their assignments made, the team leader should contact the director of the project to be reviewed and confirm the review dates, agree on the purpose of the visit, and discuss the team member assignments. The ESA program officer and the local project director should work out the necessary appointments and schedules for each team member in terms of that member's assignment so that the review can be conducted in the most efficient manner possible. These plans should include exact times, dates, places, persons to meet, and the information or materials to be furnished by the grantee or the review team.

4) When all plans are completed and documented on the Site Review Plan, the project officer will submit the completed form to the ESA Program Manager for approval before the review is actually carried out.

c. Activities Conducted during the Visit

ESA Only

Site reviews must provide an opportunity for investigation of all aspects of grant operation, including the five checks described below:

1) The statistical data used in the grantee's application must be checked to determine its accuracy. The Site Review Statistical Report (OE Form 279) will be used for this purpose.

   a) In preparation for the site review, the program officer is responsible for entering required data from the grantee's application and from OCR records. If a wide disparity is noted in checking the data from these two sources, plans for the site review should be expanded to include visits to each school affected by the project. (In the case of a nonprofit group grantee, all schools in the LEA's desegregation plan will be assumed to be affected by the project, unless the grantee has explicitly indicated the schools which will be involved.) If there is no significant deviation between the two sets of data, the project size should determine which schools will be visited. In a project where five or fewer schools are involved, all schools should be reviewed. In projects in which more than five schools are involved, a sample of schools should be drawn which includes at least five schools and no less than 10% of the schools in the project. When nonpublic schools are involved in the project, each of them should be reviewed.

   b) The third column of the Site Review Statistical Report may be completed from data furnished by the local project director but should be verified by head count and observation in classrooms and/or other activity sites. In those cases where discrepancies become apparent, explanations should be noted in the fourth column.

   c) The Site Review Statistical Report need not be completed for nonprofit group grantees, but reviewers should compare the number of project participants projected in the application (Section IV, Item 7) with the count provided by the local project director.

2) In addition to the data collected for the Site Review Statistical Report described above, information should also be gathered on the operation of the ESA project within individual schools. The Site Review of Program Operation -- School Districts (OE Form 280) should be completed for each school visited. In monitoring nonprofit group grantees, the Site Review of Program Operations -- Nonprofit Organizations (OE Form 286)

should be completed for each project site visited. Preparation for this review will include a study of the grantee's approved application as well as his quarterly program progress reports. If the site review indicates variance from the program progress reports, this should be discussed in attachments to the Site Review of Program Operation.

3) Each site review should include a meeting with the chairmen of both the ESA District-Wide Advisory Committee and in the case of local educational agencies the Student Advisory Committees. These meetings are mandatory only for the first site review in order to see that the committees have been organized and have performed their preliminary functions according to the regulations. The advisory committees will be checked in the second review only if problems or irregularities were turned up in the first review or if other circumstances suggest the need for a second review.

   a) District-Wide Advisory Committee - On the first review, the committee chairman should be asked to complete the Survey of District-Wide Advisory Committee Participation in ESA Grants (OE Form 285). From the information provided on this form, the reviewing officer should complete the District-Wide Advisory Committee Review Report (OE Form 281). Any questions concerning the committee's activities should be answered by the reviewer as a result of his discussions with the committee chairman and his review of the official minutes of all meetings held. Any membership changes since the application was approved or since any previous site review should be noted on the form. If the membership change caused any change in the legal composition of the committee, such change should be noted in Item 1. The Survey should be filled in by the committee chairman only during the first site review. In any subsequent review(s), it is only necessary that the reviewer read through the minutes and note any problems or irregularities. If any are noted, they should be discussed with the committee members.

   b) Student Advisory Committee - On the first review, each committee chairman should be asked to complete the Survey of Student Advisory Committee Participation in ESA Grant (OE Form 287). From the information provided on this form, the reviewing office should complete OE Form 282, Student Advisory Committee Review Report. Any membership changes should be noted which occurred since the ESA application was approved or since any previous program review. Any changes in Item 1 as a result of changes in membership should be noted and explained. The Survey should be completed by the SAC chairmen during the first on-site review. In any subsequent review(s) it is necessary only that the reviewers check to see that the committees are operating in conformity with the regulated guidelines.

Title IV Only

Site reviews must provide an opportunity for investigation of all aspects of grant/contract operation.

1) The Site Review of Program Operation (OE Form 280) should be completed in order to gather information of the operation of the Title IV project. Preparation of this review will include a study of the grantee's/contractor's approved application as well as his/her quarterly program progress reports.

2) Each site review should include contact with a sampling of the clientele being served by the GAC, INT, or SEA (This requirement does not apply to LEA projects.) Your sampling should be selected at random from your check of their letters of request during the review of the program operation and should be noted in Question 9 of OE Form 312. This contact may be by telephone conversation of if time allows, by a visit to the clientele. The review team should check with the clientele to determine if services are being rendered, the quality of those services and their suggestions for improvement. The Program Officer should report the findings in Question 11 OE Form 312.

d. Closing and Following Up the Site Reviews

1) After all of the review activities have been completed, it is the responsibility of the review team leader to meet in an exit interview with the local director of the project and with the senior operating official of the grantee organization. The discussion should be

brief and general in scope with all detailed comments presented in the follow-up letter. This will allow the team leader to review the data carefully and to consult with OCR, grants and contracts, or any other regional staff members before making his specific comments.

2) After each site review a letter will be prepared for the local project director and the senior operating official of the grantee organization which lays out the findings of the site review team. Such letters should describe both the strengths and the weaknesses observed in the program. Detailed information supporting all such findings must be included in the letter. For each program weakness cited, the program officer must indicate a recommended course of remedial action. The actions recommended must be described as specifically as possible and be accompanied by an implementation schedule. It is the program officer's responsibility to see that the recommendations are implemented on schedule. If the grantee has failed to correct the program weaknesses by the next quarterly report and/or site review the program officer should follow the procedures for programmatic violations.

For ESA grants, the follow-up letter should inform the grantee that OCR may also conduct a review of the project and that this program review does not necessarily take the place of any such review.

One copy of this letter should be made available to the ESA Program Manager and one copy should be retained for the case file.

3) The purpose of the site review is to monitor, not to offer technical assistance. Technical assistance should be offered to the grantee at the close of the follow-up letter and not during the monitoring visit. Technical assistance of an emergency nature and other than that which may be necessitated by monitoring findings, may be given during the site review after the monitoring function is completed.

E. Procedures for Handling Program, Fiscal, and Civil Rights Violations by the Grantee

As a result of his examination of a grantee's quarterly reports or as a result of the site reviews, the program officer may find that the grantee has failed to maintain program, fiscal, or civil rights compliance with the regulations. Any such findings must be investigated promptly and carefully and corrective action must be recommended to the grantee. If the situation is not corrected and if violations are documented, it may be necessary to initiate proceedings for suspension and termination of the grant.

1. Procedures for identifying and reporting violations are as follows:

    a. Civil Rights Violations

        ESA Only

        1) Program officers must be alert to civil rights violations, such as

            a) grouping practices that result in segregation of nonminority from minority group students;

            b) overinclusion of minority group children in special education programs;

            c) racially identifiable tracks or groupings;

            d) discriminatory personnel practices;

            e) failure to provide minority students with comparable services and facilities;

            f) discrimination against minority students in participation in curricular and extracurricular activities; and

            g) LEA transfers of property or services to, or participation in the ESA project by, discriminatory private schools.

        Title IV Only

        1) Program officers must be alert to possible civil rights violations, i.e. discrimination on the grounds of race, color, national origin, or sex.

        2) Where apparent civil rights violations are detected, they should be reported in writing through the ESA Program Manager to the Education Branch Chief in the regional Office for Civil Rights with a request for

a reply within ten days, stating recommended action. (Use OE Form 284, Notification of Non-Compliance with Regulations and Requirements of ESA/Title IV Grants). A copy of such report shall be forwarded to Washington and/or regional OGC. A third copy of OE Form 284 along with copies of all relevant correspondence will be retained for the case file.

b. Fiscal Violations

1) Program officers should be alert to fiscal violations observed in the monitoring process which may include

a) diversion of ESAA/Title IV funds to purposes other than those specified in the application;

b) supplanting of local funds with ESA Assistance monies (ESA only);

c) irregularities in accounting procedures;

d) substantive changes made by grantee in the scope of the project;

e) expenditure rates indicating overspending or underspending;

f) rate of travel;

g) lack of accountability for property;

h) subcontracting without prior OE approval for subcontract consistent with the terms and conditions;

i) staff personnel employed by more than one Federal project;

j) consultants employed in lieu of permanent staff members (ESA only); and

k) patents and copyright procedures not appropriately processed.

2) Apparent fiscal violations which are detected should be reported in writing through the ESA Program Manager to the regional contracting officer with a request for a reply within ten days, stating recommended action. (Use OE Form 284). A copy of such

report shall be forwarded to Regional and/or Washington OGC. A third copy of OE Form 284 along with copies of all relevant correspondence will be retained for the case file.

c. Programmatic Violations

1) The program officer is responsible for determining failure on the part of the grantee to carry out the funded program as set forth in the application. Program violations that may be observed and documented by the program officer include

   a) Failure to carry out activities as set forth in the application

   b) Failure to achieve action steps on schedule; and

   c) Diversion of personnel and services to unauthorized activities.

2) When the program officer notes an apparent programmatic violation he will prepare OE Form 284 for the ESA Program Manager, stating recommended action. A copy of this report shall be forwarded to Regional and/or Washington OGC. A third copy of OE Form 284 along with copies of all relevant correspondence will be retained for the case file.

3) Communication with Grantee Regarding Violations

In all instances in which a possible violation is observed in the course of a site review, the usual follow-up letter to the grantee will be delayed until Regional and/or Washington OGC has responded to the OE Form 284 submitted by the reviewing program officer. If OGC determines that no violation exists, the program officer will prepare the usual follow-up letter to the grantee. If OGC determines that a violation does exist, they will contact the grantee directly and will inform the program officer of their activities. If OGC requests additional information, the follow-up letter should request such information or notify the grantee that they will be visited by Federal officers seeking information regarding possible non-compliance.

2. Enforcement Procedures

ESA Only

a. Regional and/or Washington OGC shall review any report citing non-compliance to determine whether or not the facts are sufficient to establish a violation warranting suspension and termination. Where appropriate the ESA Program Manager or the Education Branch Chief may be requested to provide additional information.

b. Regional and/or Washington OGC will prepare a recommendation memorandum to the Regional Commissioner. This memorandum will include a recommendation on whether or not to initiate proceedings for the suspension and termination of a grant.

c. The Regional Commissioner's decision whether or not to initiate proceedings for the suspension and termination of the grant in question will be transmitted to the Regional Director.

d. Notification to the grantee by the Regional Commissioner of the initiation of termination proceedings and the provision of an opportunity for a hearing are legal procedures and will be handled by the Washington Office of General Counsel. Washington OGC will prepare the Notice of Opportunity for Hearing for the Regional Commissioner's signature. Such notice will include notification of the suspension of the grant pending the outcome of the termination proceedings. The Regional Commissioner must then provide the grantee, upon request, an informal meeting at which the grantee may show cause why such suspension should not be imposed.

e. When the Notice of Opportunity for Hearing is provided to the grantee, a copy will be given to the

    1) Regional Director
    2) Associate Commissioner
    3) Congressional liaison
    4) Regional contracting officer

f. The ultimate question of termination of the grant is first decided by an Administrative Law Judge designated by the Assistant Secretary who will

    1) Conduct a formal evidentiary hearing;

2) Receive proposed orders and supporting materials submitted by both the Government and the grantee; and

3) Issue a decision

g. Either party may appeal an adverse decision of the Administrative Law Judge to the Assistant Secretary, whose decision is final.

h. Termination is effected by:

1) the Administrative Law Judge's decision becoming final without appeal; or

2) by delivery to the grantee of the Assistant Secretary's final order.

i. When legal proceedings for termination are concluded, the Regional Commissioner will immediately notify the regional contracting officer to:

1) provide for the resumption of the grant, or

2) request an accounting for grant funds, and return of grant funds where appropriate.

Title IV Only

Title IV contracts and grants for fiscal year 1974 will be terminated in accordance with the OE General Provisions §100a. 495-Termination and Suspension for cause.

F. Regional Office Reporting Requirements

In addition to the requirements for reporting program, fiscal and civil rights violations, regional offices are also responsible for submitting quarterly summaries of their monitoring activities.

1. Each regional program officer will prepare a quarterly report for submission to the ESA Program Manager that summarizes by State the program progress and financial status of each grant assigned to him/her. These reports will be completed after each reporting period and will be entered on OE Form 283, Quarterly Regional Monitoring Summary Report.

2. ESA Project Managers will compile the reports prepared by the program officers and enter them by State on a master copy of OE Form 283 which will include data on the status of each ESAA/Title IV grant. This report will be developed after each grantee reporting period. It will be transmitted through the Regional Commissioner to the Associate Commissioner for EEO.

3. The schedule for submission of all quarterly monitoring reports to OE Washington is shown in the following table:

December 13, 1974
March 19, 1975
May 30, 1975
August 29, 1975

IX. Procedures for Closing Completed Grants and Contracts

Regional offices are responsible for closing all completed ESA and Title IV grants and contracts. The procedures to be followed in closing such grants and contracts are set forth in the OE Directive which follows.

OFFICE OF EDUCATION
OE DIRECTIVE

Contracts and Grants Administration
OE 6-09
December 31, 1969

SUBJECT: CLOSING COMPLETED CONTRACTS AND GRANTS

I. PURPOSE

This directive establishes policy and procedures governing the closing of completed contracts and grants. Actions cited below are considered applicable to both contracts and grants unless stated otherwise.

II. POLICY

Closing reviews should ensure that the file is completely documented. The closing review should ensure that all required obligations have been fulfilled, that the interests of the Government have been protected, and that sound business practices have been followed. Final payment need not be withheld until a final audit has been conducted. When, in the opinion of the Contracting/Grants Officer, the contract or grant has been physically and administratively completed, final payment may be made subject to final audit by the Government. Written assurances are obtained binding upon the Contractor/Grantee by an appropriate official thereof, that the amount of sustained audit exception taken in any subsequent audit by the Department will be refunded to the Federal Government. Department audits are performed on a selective basis. The DHEW Audit Agency determines the Contractors/Grantees to be audited, based upon such factors as dollar amount involved, the percentage of Federal participation, and current knowledge as to the adequacy of the Contractor's/Grantee's financial management operations.

III. DEFINITION --COMPLETED CONTRACT OR GRANT

A completed contract or grant is one which is both physically and administratively complete and in which all aspects of performance by the Contractor or Grantee have been either accomplished or formally waived. A contract or grant is physically complete only after all required articles and services have been delivered to and formally accepted by the Government, including those articles and services for which no specific compensation may have been stipulated. A contract or grant is administratively complete when all payments have been made and all administrative action accomplished.

Distribution:MS:MM

READ: CIRCULATE: FILE

IV. RESPONSIBILITY

The Contracting/Grants Officer ensures that all actions necessary to complete the Contract/Grant have been consummated and fully documented. A closing memorandum for the file should be prepared to reconcile any prior actions not previously documented or not documented completely. When a matter remains in an open status, completion actions should be taken to the extent feasible.

The following list represents the more significant actions of contract and grant closing. The order in which this list is presented is not significant.

A. Determine the status of billings and obtain reconciliation of differences in billings and payments.

B. Verify that all contract/grant changes have been incorporated in the agreements by appropriate revisions, supplements or amendments.

C. Ensure that adequate documentation exists to evidence receipt and formal acceptance of all contract or grant items (i.e., reports, hardware, equipment, etc.).

D. Ensure that the disposition of Government property has been properly completed.

E. Verify that price and cost revisions, when called for, have been accomplished and examine the adequacy of supporting data.

F. Verify that consent to subcontracts has been obtained in all instances required by the contract or grant.

G. Ensure that advance or progress payments have been liquidated and that any overpayments have been recovered.

H. Ensure that in all instances, where other Government agencies are involved, that closing actions are coordinated.

I. Ensure that the Contractor/Grantee has been alerted to the contract/grant requirement for the maintenance and retention of books and records.

J. Confirm that appropriate and fully documented action was taken with respect to violations of standard contract/grant clauses based on acts of Congress or Executive Orders concerning labor laws, equal employment opportunity, contingent fees, domestic articles, officials not to benefit, etc., or in lieu thereof that the file contains a memorandum that cognizant administrative personnel know of no such violation.

K. Ascertain whether any questions arose regarding exemption from Federal or State tax laws and ensure that such questions have been properly resolved.

L. Examine the contract/grant files to ascertain the possible existence of pending disputes, contingent liabilities, or circumstances out of which further claims or litigation might arise, potential credits, or refunds or other future recoveries. Ensure that adequate reserves have been set aside to provide for contingent liabilities. Maintain a suspense file, and follow up on any matters which remain unresolved. Coordinate with legal, program, finance, and audit personnel where appropriate.

M. Review all notices of cost suspension of disallowance to determine that the issues have been resolved.

N. Determine that all reports required by clauses relating to patents, inventions, royalties, copyrights, and publications have been received.

O. Ensure that any investigations and reports involving General Accounting Office have been completed and documented.

P. Confirm that assignment and subrogation have been accomplished in favor of the Government in connection with all Contractor/Grantee rights and claims, other than those against the Government, pursuant to contract/grant terms.

Q. Ensure that final payments have been made and that any necessary assignment of refunds, rebates, credits, and final release of claims by the Contractor/Grantee have been properly documented.

R. Ensure that an evaluation of the Contractor's/Grantee's performance has been made and that a copy is retained in the contract/grant file.

V. SPECIAL CONSIDERATIONS

A. In the absence of full performance and compliance with all contract/grant terms, as disclosed by the closing review, the contract/grant file is examined to ensure that the documentation contained therein adequately reflects that proper action has been taken with respect to omissions, waivers, deviations, etc...

B. Under appropriate circumstances, a contract/grant may be treated as complete (when complete in all other respects) notwithstanding the existence of one or more unresolved contingencies. The determination that such contract/grant will be closed is made by the Contracting/Grants Officer. The contract/grant file is fully documented by memoranda containing the circumstances connected with the open items. No closing action is taken when:

1. A matter awaiting disposition may be anticipated to have significant impact on performance; or

2. Complete disposition may call for substantive action on the part of the Government.

VI. PROCEDURE

A. The Program Officer is the recipient of all final reports, data and materials of a contract or grant. When a contract or grant is completed, the Program Officer reviews all final reports and project materials and determines whether or not the performance of the agreement is acceptable. If acceptable, he notifies the Contractor/Grantee of the acceptance in writing and forwards a copy of the notification to the Contracting/Grants Officer together with:

1. A statement of payments made under the agreement, if available,

2. Recommendations as to the disposition of Government property, if any, acquired by the institution or furnished by the Office of Education.

B. Upon receipt of the notification of acceptance and the related information, the Contracting/Grants Officer performs the following actions:

1. For Contracts

a. Send the Contractor five copies of each of the following forms, and request that four copies of each of the completed forms be returned within fifteen days.

(1) OE Form 5254 "Contractor's Release" (Exhibit I)

(2) OE Form 5255 "Contractor's Assignment of Refunds, Rebates, and Credits" (Exhibit II)

(3) OE Form 5256 "Final Inventory Report" (Exhibit III)

b. Since Civil Rights provisions are applicable, notify Contracts Compliance Officer of contract completion and request a statement of performance.

c. If construction is involved, notify the Office of Construction Services of Contract completion and request a statement as to whether or not there are any known violations of the labor provisions.

d. Upon receipt of the completed OE Forms 5254, 5255, and 5256 from the Contractor, furnish the organization with instructions for the disposition of the Government property, if any, and request that a certification be submitted within thirty days to attest to the completion of the disposition.

e. In the event the contract contains a Patent Rights clause, request the Program Officer to verify whether or not the required reports have been furnished. If the report has not been received, submit four copies of OS Form 489, (8/68), "Final Invention Statement and Certification" (Exhibit IV), and request that it be completed and that three completed copies be returned within fifteen days.

f. Upon receipt of the completed Final Invention Statement Report, forward one copy to the Assistant Secretary (Health and Scientific Affairs) and one copy to the Program Officer. Retain one copy in the contract file. (Reference Staff Manual Guide - General Administration, Chapter 6-10).

g. When actions 1,a through 1,f of this procedure have been accomplished, assure that final payment has been made and complete the closeout process by performing the following:

   (1) Issue OE Form 5257 "Closeout Memorandum" to the Finance Office and the Program Officer - (Exhibit V).

   (2) Complete OE Form 5258 "Checklist for Fixed Price Contract Closeout" - (Exhibit VI), or OE Form 5259 "Checklist for Grants and Cost Reimbursement Type Contract Closeouts" - (Exhibit VII), as applicable, and place in contract file.

   (3) Complete "Contract/Grant Records Retirement Notice, (OE Form 5260 - Exhibit VIII), and distribute as indicated thereon.

2. For Grants

a. Furnish the Grantee with five copies of each of the forms listed below and request that four copies of each be completed and returned to the Grants Officer within fifteen days after receipt.

   (1) OE Form 5261 "Grantee's Release" - (Exhibit IX).

   (2) OE Form 5262 "Grantee's Assignment of Refunds, Rebates, and Credits" - (Exhibit X).

   (3) OE Form 5256 "Final Inventory Report" - (Exhibit III).

   NOTE: For those programs wherein title to equipment and material acquired under a project is vested in the Grantee, a "Final Inventory Report" will be required.

b. Obtain statements of compliance, as applicable, as described in Subparagraph 1,b and 1,c above.

c. Upon receipt of the completed OE Forms 5261, 5262, and 5256, furnish the Grantee with instructions for the disposition of excess or surplus Government property, if applicable, and request that a certification be submitted within thirty days to attest to the completion of the disposition.

d. Obtain the "Final Invention Statement" OS Form 489 - (Exhibit IV), if applicable, in accordance with Paragraph 1,e, above and distribute pursuant to Paragraph 1,f.

e. Complete closeout actions in accordance with Paragraph 1,g, above.

3. Incomplete Performance and/or Contract/Grant Violation

a. In the event the Contractor/Grantee has not completed performance of the Contract/Grant or is guilty of a violation of the terms and conditions thereof, the Contracting/Grants Officer

(1) Notifies the Finance Office to withhold further payments to the Contractor/Grantee.

(2) Notifies the Contractor/Grantee of the discrepancies and requests correction, clarification, justification, adjustment, or completion, as applicable.

(3) Reconciles discrepancies with the assistance of Program Officer, Audit Personnel, Office of General Counsel, Contract Compliance Officer, and/or Office of Construction Service as appropriate.

(4) Upon satisfactory reconciliation, performs closeout actions prescribed in 1,g above.

VII. EXCEPTIONS

The procedure specified in Section VI, B, 1 of this directive is not applicable, in its entirety, to Firm Fixed Price contracts. Excluded from such contracts are the requirements for OE Form 5254 "Contractor's Release" (Exhibit I), OE Form 5255 "Contractor's Assignment of Refunds, Rebates, and Credits" (Exhibit II). Also excluded is the requirement for OE Form 5256 "Final Inventory Report" (Exhibit III) and the related disposition activity, provided that, the contract does not include the furnishing of Government property to the Contractor.

EXHIBIT:

I Contractor's Release - OE Form 5254
II Contractor's Assignment of Refunds, Rebates, and Credits - OE Form 5255
III Final Inventory Report - OE Form 5256
IV Final Invention Statement and Certification - OS Form 489
V Closeout Memorandum - OE Form 5257
VI Checklist for Fixed Price Contract Closeout - OE Form 5258
VII Checklist for Grants and Cost-Reimbursement Type Contract Closeout OE Form 5259
VIII Contract/Grant Records Retirement Notice - OE Form 5260
IX Grantee's Release - OE Form 5261
X Grantee's Assignment of Refunds, Rebates, and Credits - OE Form 5262

"This directive has been read and if necessary circulated."

Signed________________________

OE Form 5254 (6/69)

EXHIBIT I

CONTRACTOR'S RELEASE

Pursuant to the terms of Contract No. OE-__________________________and in
consideration of the sum of ____________________________________
($) which has been or is to be paid under the said contract to
____________________________________ (hereafter called the Contractor)
or to its assignees, if any, the Contractor, upon payment of the said sum by the
Department of Health, Education, and Welfare, Office of Education (hereafter
called the Government), does remise, release, and discharge the Government,
its officers, agents, and employees, of and from all liabilities, obligations,
claims, and demands whatsoever under or arising from the said contract except:

1. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible or exact statement by the Contractor, as follows:

2. Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the said contract, which are not known to the Contractor on notice in writing to the Contracting Officer within the period specified in the said contract.

3. Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the said contract relating to patents.

The Contractor agrees, in connection with patent matters, and with claims which are not released as set forth above, that it will comply with all of the provisions relating to notification to the Contracting Officer and relating to the defense or prosecution of litigation. The Contractor further agrees, pursuant to the audit and accounting provisions of the contract, that the amount of any sustained audit exceptions resulting from any subsequent audit by the Department will be refunded to the Federal Government. The refund, if any, will be made within thirty (30) days after the exception has been ratified.

OE Form 5254 (6/69)

EXHIBIT I

In Witness Whereof, this release has been executed this ______________________

day of ______________________, 19______.

____
(Name of Organization)

By: ______________________
(Name and Title)

CERTIFICATE

I, ______________________, certify that I am the ______________________

______________________ of the ______________________

named as Contractor in the foregoing release; that ______________________

______________________ who signed said release on behalf of the Contractor

was then ______________________ of said ______________________;

that said release was duly signed for and on behalf of said ______________________

______________________ by authority of its governing body and is within

the scope of its ______________________ powers.

____
(Name and Title)

(______________________ Seal)
(If Applicable)

EXHIBIT II

OE Form 5255 (6/69)

CONTRACTOR'S ASSIGNMENT OF REFUNDS, REBATES, AND CREDITS

Pursuant to the terms of Contract No. OE- ______________________ in consideration of the reimbursement of costs and payment of fee (if any), as provided in the said contract and any assignment thereunder, (hereafter called the Contractor) does hereby:

(1) Assign, transfer, set over and release to the Department of Health, Education, and Welfare, Office of Education (hereafter called the Government), all right, title and interest to all refunds, rebates, credits or other amounts (including any interest thereon) arising out of the performance of the said contract, together with all the rights of action accrued or which may hereafter accrue thereunder.

(2) Agree to take whatever action may be necessary to effect prompt collection of all funds, rebates, credits, or other amounts (including any interest thereon) due or which may become due, and to promptly forward to the Contracting Officer, checks (made payable to the Department of Health, Education, and Welfare, Office of Education) for any proceeds so collected. The reasonable costs of any such action approved by the Contracting Officer as stated in the said contract may be applied to reduce any amounts otherwise payable to the Government under the terms hereof.

(3) Agree to cooperate fully with the Government as to any claims or suit in connection with refunds, rebates, credits, or other amounts due (including any interest thereon); to execute any protest, pleading, application, power of attorney, or other papers in connection therewith; and to permit the Government to represent it at any hearing, trial, or other proceeding arising out of such claim or suit.

In Witness Whereof, this assignment has been executed this ______________ day of ______________________, 19____.

____

By: ______________________________

CERTIFICATE

I, ______________________, certify that I am the ______________________ of the ______________________ named as Contractor in the foregoing assignment; that ______________________ who signed said assignment on behalf of the Contractor was then ______________________; that said assignment was duly signed for and on behalf of said ______________________ by authority of its governing body and is within the scope of its ______________________ power.

____
(Name and Title)

EXHIBIT III

Contracting/Grants Officer
U.S. Office of Education
Department of Health, Education,
and Welfare
400 Maryland Avenue, SW
Washington, D.C. 20202

Gentlemen:

Regarding Final Inventory of Government Property Contract/Grant Number ____________.

The following Final Inventory of Government property is submitted for the subject contract/grant.

I. Nonexpendable Items of Personal Property on hand.

II. Expendable Items of Personal Property on hand.

III. Items of Personal Property no longer required for use on the contract or grant. Disposition instructions are requested.

CERTIFICATE

The undersigned Contractor/Grantee, having completed the work called for by Contract/Grant No. ________________________ hereby certifies that all materials, supplies, and equipment which were furnished to the Contractor/Grantee by the Government for use on the Contract/Grant, or for which the Contractor/Grantee has been or will be reimbursed by the Government under the terms of the Contract/Grant, if not specifically included in the foregoing inventories were expended in performing the work called for by the Contract/Grant.

Very truly yours,

OE Form 5256 (6/69)

EXHIBIT IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
FINAL INVENTION STATEMENT AND CERTIFICATION
GRANT OR AWARD

DHEW GRANT OR AWARD NUMBER

We hereby certify that, to the best of our knowledge and belief, all inventions are listed below which were conceived and/or first actually reduced to practice during the course of work under the above referenced DHEW grant or award for the period, ____________________ (ORIGINAL EFFECTIVE DATE) through ____________________ (DATE OF TERMINATION)

(If no inventions have been made under the grant or award, insert the word "None" under Title of Invention.)

NAME OF INVENTOR	TITLE OF INVENTION	DATE REPORTED TO DHEW

Use Continuation Sheet if Necessary

Signature, in ink, is required in the space provided below, appropriate to the type of grant or award being supported.

SIGNATURE OF INSTITUTIONAL OFFICIAL REQUIRED IN ALL INSTANCES.

TYPE OF GRANT OR AWARD	SIGNATURES
1. FOR RESEARCH GRANT	(PRINCIPAL INVESTIGATOR OR PROJECT DIRECTOR)
2. FOR RESEARCH RESOURCES GRANT	(DIRECTOR)
3. FOR TRAINING GRANT	(PROGRAM DIRECTOR)
4. FOR THE RESEARCH CAREER AWARD PROGRAM	(AWARDEE)
5. FOR A FELLOWSHIP OR DIRECT TRAINEESHIP AWARD ________	(a) (FELLOW OR TRAINEE) (b) (SPONSOR)
6. FOR OTHER TYPES OF GRANTS IDENTIFY TYPE	(RESPONSIBLE PROGRAM OFFICIAL)

APPROVED	(SIGNATURE INSTITUTIONAL OFFICIAL) TYPE NAME	TITLE	DATE
	NAME OF INSTITUTION	MAILING ADDRESS	

OS FORM 489 (8-68)

EXHIBIT IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PROCEDURE FOR SUBMISSION OF FINAL INVENTION STATEMENT AND CERTIFICATION GRANT OR AWARD

A Final Invention Statement and Certification shall be executed and submitted within thirty days following termination of support. All inventions which were conceived or first actually reduced to practice during the course of work under the grant or award from the original effective date of support through the date of termination, whether or not previously reported, shall be listed on the Statement. Statements are not required to be submitted annually.

The Final Invention Statement and Certification does not, in any way, relieve the person responsible for the grant or award and the institution of the responsibility to assure that all inventions are promptly and fully reported to the Department of Health, Education, and Welfare, as required by the terms of the grant or award.

A Final Invention Statement and Certification is attached. Return the original and first carbon to the awarding institute, division, or center.

With the exception of the Fellowship and Direct Traineeship Award, each Statement will require the signatures of: (1) The person responsible for the grant or award concerned; and (2) An institution official authorized to sign on behalf of the institution. For the Fellowhsip or Direct Traineeship Award, the signature of the fellow or trainee, the sponsor and an institutional official are required.

Information regarding the reporting of inventions, including the reporting form to be followed, may be obtained from the Inventions Office, Department of Health, Education, and Welfare, c/o National Institutes of Health, Bethesda, Maryland. 20014.

EXHIBIT V

UNITED STATES GOVERNMENT

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

Memorandum

TO

DATE

FROM

SUBJECT Contract/Grant No. ______________________ with ____________________

____

Enclosed herewith is the Contractor's Release dated ______________________,

and the Contractor's Assignment of Refunds, Rebates, and Credits

dated ____________________.

Also attached for your records is a copy of the Contract Audit Closing Statement

______________________ dated ______________________________
(Audit Report No.)

issued by the cognizant audit agency ______________________________

____

All contractual obligations have been fulfilled. All residual Government property has been accounted for and final disposition has been accomplished.

Distribution:

Finance Division - Original
Program Officer - 1 copy
Contract File - 1 copy

HELP ELIMINATE WASTE COST REDUCTION PROGRAM

EXHIBIT VI

CHECKLIST FOR FIXED PRICE CONTRACT CLOSEOUT

Contractor:

Contract No.

	Y	N	N/A
1. Have all contract changes been formalized? If not, set forth outstanding changes by number. ________			
2. Have all delivery or other claims been resolved? If not, set forth status. ________			
3. Does the file contain adequate documentation to evidence receipt, inspection, and acceptance of all contract items, including accomplishment of all corrections? If not, set forth nature of action taken. ________ ________			
4. Have all actions relating to final disposition of Government Property been taken? If not, set forth status. ________ ________			
5. Have all disputes and other related matters been finally resolved? If not, explain. ________ ________ ________			
6. Does the file adequately document final payment (after full liquidation of advance or progress payments, if applicable?)			
7. Have discrepancies between deliveries and payments been removed?			
8. Have all other outstanding actions been taken and adequately documented in the file? If not, describe. ________ ________ ________ ________			

Date: ________

Signature: ________
Contracting Officer

OE Form 5258 (6/69)

OE Form 5259 (6/69)   EXHIBIT VII

CHECKLIST FOR GRANTS AND COST-REIMBURSEMENT TYPE CONTRACT CLOSEOUT

Contractor/Grantee

Agreement No ____________________

	Y	N	N/A
1. Have all contract or grant changes been formalized? If not, set forth outstanding changes by number. ____________________			
2. Have consent and ratification actions requested and required of the Contracting Officer under the "Subcontracts" clause been taken? If not, set forth the outstanding actions. ____________ ____________________________________ ____________________________________			
3. Have all delivery or other claims been resolved? If not, set forth status. ____________________________ ____________________________________			
4. Does the file contain adequate documentation to evidence receipt, inspection, and acceptance of all contract or grant items, including accomplishment of all corrections? If not, set forth nature of action taken. ____________________ ____________________________________			
5. Have all actions relating to final disposition of Government property been taken? If not, set forth status. ____________ ____________________________________			
6. (CONTRACTS ONLY) Has the Contractor supported its submission of the completion voucher/invoice with the necessary documentation-cumulative claim and reconciliation, assignment of refunds, rebates, credits and other amounts, and final release? If not, set forth action taken. ____________________________ ____________________________________			
7. (GRANTS ONLY) Has Grantee furnished final financial reports, assignment of refunds, rebates, credits, and final release? If not, document action taken to complete. ____________________ ____________________________________			

EXHIBIT VII

	Y	N	N/A
8. Does the file adequately document final payment (after full liquidation of advance payment, if applicable?) ______________			
9. Have all suspensions, disallowances, disputes, and other related matters been finally resolved and disposed of? If not, explain. ______________________________ ______________________________ ______________________________			
10. Have all other outstanding actions been taken and adequately documented in the file? If not, describe. ______________ ______________________________ ______________________________			

Signature ______________________
Contracting Officer

Date: ______________________

EXHIBIT VIII

CONTRACT/GRANT RECORDS RETIREMENT NOTICE

TO: See below

____

Contract/Grant No. ____________

Contract Type ____________

1. This Contract/Grant is considered to be physically and administratively completed.

2. Final payment on the agreement was made on ____________________

3. The Official File of the Contracting Officer will be disposed of as indicated below:

____________	Total expenditure was $2,500 or less Retain in inactive file and destroy four (4) years after date shown in Item 2 above.
____________	Total expenditure was in excess of $2,500 and less than $25,000. Retain in inactive file for one (1) year, then transfer to nearest Federal Record Center for six (6) additional years, then destroy.
____________	Total expenditure was $25,000 or more Retain in inactive file for one (1) year, then transfer to nearest Federal Record Center for ten (10) additional years then destroy.

4. If it should become necessary to retain the Contract/Grant file beyond the retention period indicated above, the Contracting Officer will issue a written notice specifying the extended retention date.

Date: ____________ Name: ______________________

Contracting Officer

Distributees:
Contract File - 1 copy
Finance - 1 copy
Negotiator - 1 copy
Program Officer - 2 copies
HEW Audit - 1 copy
Contract Compliance Officer (when applicable - 1 copy)
Office of Construction Services (when applicable - 1 copy)

EXHIBIT IX

GRANTEE'S RELEASE

In consideration of the sum of ______________________________
($ __________) which has been or is to be paid under the said Grant to __________
____
____,
(hereafter called the Grantee) or its assignees, if any, the Grantee, upon payment of the said sum by the Department of Health, Education, and Welfare, Office of Education (hereafter called the Government), does remise, release, and discharge the Government, its officers, agents, and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said grant except:

> Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible or exact statement by the Grantee, as follows:

The Grantee agrees, in connection, with claims which are not released as set forth above, that it will comply with all of the provisions of the said grant, including without limitation those provisions relating to notification to the Grants Officer and relating to the defense or prosecution of litigation.

The Grantee further agrees, pursuant to the audit and accounting provisions of the grant, that the amount of any sustained audit exceptions resulting from any subsequent audit by the Department will be refunded to the Federal Government. The refund, if any, will be made within thirty (30) days after the exception has been notified.

In Witness Whereof, this release has been executed this ____________________

day of ______________________________, 19_____.

____
(Name of Organization)

By: ______________________________
(Name and Title)

EXHIBIT IX

CERTIFICATE

I, ______________________________ certify that I am the ____________________

______________________________ of the ______________________________

____

who signed said release on behalf of the ______________________________

______________________________ was then ______________________________

______________________________ of said ______________________________

____:

That said release was duly signed for and on behalf of said ____________________

____

by authority of its governing body and is within the scope of its

____ powers.

____
(Name and Title)

(______________________________ SEAL)

EXHIBIT X

GRANTEE'S ASSIGNMENT OF
REFUNDS, REBATES, AND CREDITS

In consideration of the reimbursement of costs as provided in the said Grant and any assigned thereunder, ______________________________
(Name of Grantee)
(Hereafter called the Grantee) does hereby:

(1) Assign, transfer, set over and release to the Department of Health, Education, and Welfare, Office of Education (hereafter called the Government), all right, title and interest to all refunds, rebates, credits, or other amounts (including any interest thereon) arising out of the performance of the said Grant, together with all the rights of action accrued or which may hereafter accrue thereunder.

(2) Agree to take whatever action may be necessary to effect prompt collection of all refunds, rebates, credits, or other amounts (including any interest thereon) due or which may become due, and to promptly forward to the Finance Division of the Office of Education, checks (made payable to the Department of Health, Education, and Welfare, Office of Education) for any proceeds so collected. The reasonable costs of any such action to effect collection shall constitute allowable costs when approved by the Grants Office and may be applied to reduce any amounts otherwise payable to the Government under the terms hereof.

(3) Agree to cooperate fully with the Government as to any claim or suit in connection with refunds, rebates, credits, or other amounts due (including any interest thereon); to execute any protest, pleading, application, power of attorney, or other papers in connection therewith; and to permit the Government to represent it at any hearing, trial, or other proceeding arising out of such claim or suit.

In Witness Whereof, this assignment has been executed this ____________ day of ____________, 19____.

____
(Name of Grantee)

____
(Name and Title)

CERTIFICATE

I, ____________________, certify that I am the ____________________
____________________ of the ____________________
____________________ named as ____________________
in the foregoing assignment; that ____________________
who signed said assignment on behalf of the ____________________
was then ____________________; that said assignment was duly
signed for and on behalf of said ____________________ by authority of its
governing body and is within the scope of its ____________________ powers.

____
(Name and Title)

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

PROPERTY MANAGEMENT STANDARDS

1. This Attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments. Federal grantor agencies shall require State and local governments to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this Attachment are included.

2. The following definitions apply for the purpose of this Attachment:

a. Real property. Real property means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

b. Personal property. Personal property means property of any kind except real property. It may be tangible -- having physical existence, or intangible -- having no physical existence, such as patents, inventions, and copyrights.

c. Nonexpendable personal property. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

d. Expendable personal property. Expendable personal property refers to all tangible personal property other than nonexpendable property.

e. Excess property. Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs.

3. Each Federal grantor agency shall prescribe requirements for grantees concerning the use of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

a. The grantee shall use the real property for the authorized purpose of the original grant as long as needed.

b. The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

c. When the real property is no longer needed as provided in a. and b., above, the grantee shall return all real property furnished or purchased wholly with Federal grant funds to the control of the Federal grantor agency. In the case of property purchased in part with Federal grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

4. Standards and procedures governing ownership, use, and disposition of nonexpendable personal property furnished by the Federal Government or acquired with Federal funds are set forth below:

a. Nonexpendable personal property acquired with Federal funds. When nonexpendable personal property is acquired by a grantee wholly or in part with Federal funds, title will not be taken by the Federal Government except as provided in paragraph 4a(4), but shall be vested in the grantee subject to the following restrictions on use and disposition of the property:

(1) The grantee shall retain the property acquired with Federal funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Federal funds. When there is no longer a need for the property to accomplish the purpose of the grant program, the grantee shall

use the property in connection with other Federal grants it has received in the following order of priority:

(a) Other grants of the same Federal grantor agency needing the property.

(b) Grants of other Federal agencies needing the property.

(2) When the grantee no longer has need for the property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards

(a) Nonexpendable property with an acquisition cost of less than $500 and used four years or more. The grantee may use the property for its own official activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) All other nonexpendable property. The grantee may retain the property for its own use provided that a fair compensation is made to the original grantor agency for the latter's share of the property. The amount of compensation shall be computed by applying the percentage of Federal participation in the grant program to the current fair market value of the property.

(3) If the grantee has no need for the property, disposition of the property shall be made as follows:

(a) Nonexpendable property with an acquisition cost of $1,000 or less. Except for that property which meets the criteria of (2)(a) above, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed in accordance with (iii) below.

(b) Nonexpendable property with an acquisition cost of over $1,000. The grantee shall request disposition instructions from the grantor agency. The Federal agency shall determine whether the property can be used to meet the agency's requirement. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal grantor agency shall issue instructions to the grantee within 120 days and the following procedures shall govern:

(i) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee's participation in the grant program to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the grantee is instructed to otherwise dispose of the property, he shall be reimbursed by the Federal grantor agency for such costs incurred in its disposition.

(iii) If disposition instructions are not issued within 120 days after reporting, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed by applying the percentage of Federal participation in the grant program to the sales proceeds. Further, the grantee shall be permitted to retain $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(4) Where the grantor agency determines that property with an acquisition cost of $1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, it may reserve title to such property, subject to the following provisions:

(a) The property shall be appropriately identified in the grant agreement or otherwise made known to the grantee.

(b) The grantor agency shall issue disposition instructions within 120 days after the completion of the need for the property under the Federal grant for which it was acquired. If the grantor agency fails to issue disposition instructions within 120 days, the grantee shall apply the standards of 4a(1), 4a(2)(b), and 4a(3)(b).

b. Federally-owned nonexpendable personal property. Unless statutory authority to transfer title has been granted to an agency, title to Federally-owned property (property to which the Federal Government retains title including excess property made available by the Federal grantor agencies to grantees) remains vested by law in the Federal Government. Upon termination of the grant or need for the property, such property shall be reported to the grantor agency for further agency utilization or, if appropriate, for reporting to the General Services Administration for other Federal agency utilization. Appropriate disposition instructions will be issued to the grantee after completion of Federal agency review.

5. The grantees' property management standards for nonexpendable personal property shall also include the following procedural requirements:

a. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property, percentage of Federal funds used in the purchase of property; location, use, and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the grantor agency for its share.

b. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

c. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

d. Adequate maintenance procedures shall be implemented to keep the property in good condition.

e. Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

6. When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal grant purposes, the grantee may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with 4a(2)(b).

7. Specific standards for control of intangible property are provided as follows:

a. If any program produces patents, patent rights, processes, or inventions, in the course of work aided by a Federal grant, such fact shall be promptly and fully reported to the grantor agency. The grantor agency shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery--including rights under any patent issued thereon--shall be disposed of and administered in order to protect the public interest consistent with

"Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 2[illegible], 1971, and Statement of Government Patent Policy as printed in 36 F.R. 16889).

b. Where the grant results in a book or other copyrightable material, the author or grantee is free to copyright the work, but the Federal grantor agency reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

X. Program Management Information System

A. Application Abstract, OE Form 243

Once the final budget document has been prepared and the award document signed, the program officer should update the abstract and fill in the amount awarded. A copy of this abstract should be forwarded to BEEO/Central Control Unit.

B. Application Budget Breakdown by Special Categories, OE Form 240

After the grant awards have been made and at the same time the abstracts are transmitted, an OE Form 240 should be completed for each of the four types of ESA applications. The amount awarded must be broken down by special category for all ESA grants. The Arts and Humanities Program category only needs to be completed for nonprofit grants, if appropriate. Next, the total number of students included in the project should be broken down into public and nonpublic. (The nonpublic column does not apply to nonprofit groups.)

The number of persons to be employed by the project should be broken down into professional and nonprofessional. (This column does not apply to nonprofit groups.) Part-time staff is to be included but the number to be counted will be computed on percentage of time devoted to project, e.g., two principals who worked 25% of their time and one classroom teacher who worked 50% of his/her time would count at one professional.

C. Grantee Tracking Instrument

This instrument is designed to provide a means of charting the ESA or CRA Title IV grantee's completion of post-award responsibilities to EEO and EEO's responsibilities to the grantee. The maintenance of this chart is the responsibility of the program manager who will develop the chart and keep it current according to the following instructions:

A. Grantees should be listed in alphabetical order by state.

B. Record the Congressional District (s) in which the project is operating.

C. In Columns #7 and #8 record the date that the site review produced information that the District-wide advisory committee and the student advisory committee (if required) are constituted and functioning appropriately.

D. Record the date when the quarterly program progress and financial reports were received; and record the dates when the required monitoring visits were made.

E. Record the receipt dates of the final program progress report and the final financial report.

F. Record the date that the case file is completed, and record the date when the close-out procedures are completed.

G. In the column headed "Comments," record reasons for variance from expected completion schedules, additional or unscheduled activities involved in the grantee monitoring, etc.

D. Regional Monthly Activities Log

1. Description

The ESA Program Manager will be responsible for maintaining the Regional Office Monthly Activities Log (OE Form). This report will document the level and type of activity in the EEO Regional Office by month.

Although this type of recording and analysis has high utility at several levels of management and although, with slight modification, it could become a very useful tool for program projection, its basic purpose, at this time, will be for information retrieval and analysis.

2. Instructions and definitions

a) The ESA Program Manager will be responsible for developing, with his staff, and maintaining the means for collecting, consolidating, and recording the required information for the single regional log.

b) Although a specific function that might involve more than or less than an eight hour day would be collected in terms of man-hours, such entries in the Regional Activities Log should be made in terms of man-days when the office totals are calculated for the month. Fractions of man-days should be recorded in eighth's of man-days.

For example, if a given activity during a given month utilizes a total of eleven man-hours, the log should show 1 3/8 man-days.

c) The Activities Log should be completed for the preceding month by the fifth day of each month. A copy of the cumulative log should be received in the Central Control Unit, BEEO, Washington before the tenth of each month.

d) Examination of the log shows that there are three basic types of information to be recorded.

- Column #2, asks for a summary of the staff man-days that were available to the region for the reported month.

- Columns 3 through 12 will list information regarding the activities carried out by the regional office staff exclusive of the administration efforts to make that output possible. The difference between the man-day totals of these columns and the data in Column 2 would reflect administrative time and lost time.

- Column 13 asks for information describing the number and nature of client requests to the regional office.

e) Required information should be recorded according to the following definitions and instructions

(1) Column 1 - This column is pre-printed by months and follows the Federal fiscal year format. This will provide the information in such a way that overlays of appropriation procedures will reveal this influence on regional manpower use.

(2) Column 2 - For purposes of this log, secretarial and clerical help should not be included in the calculations except for the clerical help with administrative responsibility that is distinctly connected with record maintenance and processing. The work of the personnel in a central control unit should be considered.

This figure should reflect the actual number of man-days available for the month and should not include leave time taken during the month.

(3) Column 3 - There are two parts to this column. One part reports regional staff days used to perform the various tasks involved in the administrative functions of application processing.

This would not include pre-grant site reviews or program developmental assistance. It will include preparation of the various forms and reports involved in the application processing procedure and the grant record maintenance included in the processing procedure.

The second part of this column includes all forms of outside help employed by the regional EEO staff to process applications. This would include other regional staff borrowed from other offices to assist with the process, the review committees, and personnel temporarily assigned from headquarters or other regions.

(4) Column 4 - Grant record maintenance activity to be shown under this heading should be that activity not involved in the application process but in the administration of grants after their approval.

Activities of both the directly responsible clerical (example: personnel assigned in the central control unit) and the professional personnel who participate in the maintenance of regional EEO records should be included.

(5) Column 5 - Time in preparing all reports except those included in the application processing procedure should be recorded under this heading.

Time in preparing field trip reports, audit reports, reports required by BEEO Washington, or other reports applicable to total EEO activities should be reported.

Note: The preparation of reports not involved with EEO activity but requiring EEO time such as a report of a trip to a conference on housing as an assignment by the Regional Commissioner should be included in the total time required for "Other Activities" (Column 11).

(6) Column 6 - This column, refers to activities related to operational planning that would include, but not necessarily be confined to, site visit planning, program officer goal projections coordinated with grantee activity, program officer involvement in development of the regional OPS plan, and planning needed for internal training programs.

(7) Column 7 - Time devoted to actual implementation of staff training programs should be listed in this column.

(8) Column 8 - Pre-grant site reviews will be conducted for applications that make request in excess of $500,000 and for those applications which the ESA program manager feels there is a need for additional information. This three-part column requests 1) the number of pre-grant site visits made during the month being reported; 2) the number regional EEO staff man-days utilized in making the pre-grant site visits; and 3) the number of other than EEO staff man-days utilized in making the pre-grant site visits. Outside help is any personnel used other than regional EEO staff, i.e., personnel from other regions, personnel from other offices in the region, or Washington personnel.

(9) Column 9 - Program audits are not a routine activity; but when needed, they are of a high priority and usually require a high man-day assignment. The column is in two parts; the first records the number of audits performed and the second, the number of staff days devoted to the task.

(10) Column 10 - Two routine monitoring Site Reviews must be completed for each ESA grant. This column is in two parts; first the number of reviews completed and second the number of man-days devoted to that activity.

Note: These visits may generate requests for technical assistance (Column 13) and further activity in program support technical assistance (Column 12).

(11) Column 11 - Occasionally it is necessary that program employees perform duties that are more related to regional office needs than to the EEO program. Such activity is a EEO employee's official duty and should be recorded in the activities log.

There are two columns under the heading of "Other Regional Activities." The first should list the number of non-EEO tasks undertaken by EEO staff and the second should list the number of man-days used for such activities.

(12) Column 12 - For purposes of recording activity charged against a general heading of "Technical Assistance," such activity should be identified and categorized under four separate titles that better define the exact nature of the assistance provided to school district clients.

Each of these four sub-titles covering technical assistance has two columns to be completed. One column covers the number of responses that the regional office made during the month and the second enumerates the man-days devoted to the responses under that title.

To properly list technical assistance activity, the following definitions are furnished:

. Legally Mandated - The technical assistance, described in section 403, Title IV of the Civil Rights Act of 1964 that is provided to requesting school districts in the preparation, adoption, and implementation of school desegregation plans should be listed under this heading.

. Administratively Required - The technical assistance called for in the ESA administrative manual to school districts whose applications are either returned for resubmission or have been placed in program hold should be listed under this title.

- Program Development - The technical assistance provided to school districts or other potential grantees for program planning and proposal writing activities for any program eligible for funding by EEO should be listed under this title.

- Program Support - The technical assistance (as distinct from monitoring or audits) that is provided to grantees to improve their program operation during the grant period should be listed under this column.

(13) Column 13 - The number of requests from clients or potential clients for assistance should be recorded here by category.

For definitions, see above.

APPENDIX A:

RATING SCALES AND QUALITY CRITERIA FOR ESA AND TITLE IV APPLICATIONS

CRITERIA FOR BASIC LEA GRANTS AND PILOT PROJECTS
(P.L. 92-318 Emergency School Aid Act)

Overview

The criteria to be used in reviewing applications for Basic LEA Grants and Pilot Projects are listed in Section 710(c) of the Emergency School Aid Act (ESAA). The legislation limits the criteria to the applicant's need for assistance, the extent and comprehensiveness of its efforts to reduce minority group isolation, and the educational quality of the activities for which funds are being requested.

The evaluation of the application according to these criteria is only part of the extensive examination which each application will be given. When an application is received in the regional office, it will be subjected to several different reviews in order to determine whether or not it should be funded and, if so, at what level.

- The applicant's plan for desegregation or for the reduction, elimination, or prevention of minority group isolation will be reviewed by the HEW Office for Civil Rights (OCR) in order to determine whether or not it qualifies as an eligible plan under Section 706 of the Act.

- The application will be reviewed jointly by a program officer and a contracting officer to identify all project activities which are not expressly authorized by Section 707(a) and to identify all project costs which are not allowable under the restrictions described in the ESAA Regulations.

- The applicant's compliance with the assurances listed at the end of the application will be checked by a program officer, a contracting officer, and an OCR representative.

- Applications for Pilot Project awards will be checked by a program officer to make certain either that the applicant enrolls at least 15,000 minority students or that at least 50% of the students enrolled are minority group members. In addition the participating schools listed in the application will be checked to make certain that at least 50% of the students enrolled in those schools are minority group members.

- The program officer will compute the applicant's statistical score based on the four scales shown below. He will use either the scales for Basic Grants or for Pilot Projects depending on the category in which the application has been submitted. The first and second scales in each set indicate the extent of minority group enrollment in the local educational agency (LEA). The third and fourth scales show the effective net reduction in minority group isolation taking place since initiation of the applicant's current plan. The score derived from these scales will be added to the applicant's quality score to determine the composite score.

- The educational quality score will be determined by a four-member non-Federal panel made up of persons having an understanding of education programs and of school desegregation. Each panelist will make an independent rating of the educational quality of the application using the criteria contained here. The ratings of the four panelists will be totaled and divided by four to obtain the quality score for the application. In the course of their consideration of each application, the panel may recommend the deletion of items which they judge to be inconsistent with the purposes stated in Section 702(b) of the Act. The panel may also recommend that changes be made in other program items, in order to increase the likelihood of overall effectiveness of the project.

- Next, an administrative review of the budget will be conducted by a program officer and a contracting officer. This review will examine the recommendations of the panel members and make adjustments in the budget reflecting the recommendations. All such changes will be designed either to make the application more consistent with the purposes of the Act or to adjust the costs proposed in the application to make them more reasonable.

- The regional ESAA program manager will conduct the final review. He will bring together the results of the previous reviews along with any comments offered by the LEA's district-wide advisory committee, the State educational agency, and the HEW Regional Director. The program manager will make the final decisions on the panel's recommendations, give his concurrence to the administrative review and recommend the funding level for the application. If a problem exists which cannot be quickly resolved, the applicant will be given the opportunity to revise and resubmit his application, with assistance offered by the regional office. If no problems exist in any of the areas reviewed by the program manager or in any of the areas previously reviewed, the application will be placed in a category designated as "fundable." Projects in this category will be funded to the extent that funds are available. Separate lists will be compiled for each State with separate lists for each grant program within a State. On each of the fundable lists applications will be ranked according to the magnitude of their composite scores. Funding will begin with the highest rated applications and proceed to those with ratings which are lower, with funding continuing so long as money remains available for the particular grant program within the particular State.

RATING SCALE FOR BASIC LEA GRANTS AND PILOT PROJECTS

1. Percentage of Minority Students in District (15 point maximum)

Percent Minority Students	Points
Over 80	15
70-79.9	14
60-69.9	13
50-59.9	12
45-49.9	11
40-44.9	10
35-39.9	8
30-34.9	6
25-29.9	4
20-24.9	2
10-19.9	1
Under 10	0

2. Number of Minority Students in District (15 point maximum)

Number of Minority Students	Points
Over 50,000	15
40,000-49,999	14
30,000-39,999	13
20,000-29,999	12
15,000-19,999	11
10,000-14,999	10
8,000- 9,999	9
7,000- 7,999	8
6,000- 6,999	7
5,000- 5,999	6
4,000- 4,999	5
3,000- 3,999	4
2,000- 2,999	3
1,000- 1,999	2
100- 999	1
0- 99	0

3. Effective Net Reduction of Minority Group Isolation--Number of Children (25 point maximum for Basic Grants; 12½ points maximum for Pilot Projects)*

Number of Minority Students	Points
Over 15,000	25
14,000-14,999	23
13,000-13,999	22
12,000-12,999	20
11,000-11,999	18
10,000-10,999	17
9,000- 9,999	15
8,000- 8,999	13
7,000- 7,999	12
6,000- 6,999	10
5,000- 5,999	8
4,000- 4,999	7
3,000- 3,999	5
2,000- 2,999	3
1,000- 1,999	2
100- 999	1
0- 99	0

4. Effective Net Reduction of Minority Group Isolation--Percentage of Children (35 point maximum for Basic Grants; 17½ points maximum for Pilot Projects)*

Measure	Points
85-100	35
83-84	34
81-82	33
79-80	32
77-78	31
74-76	30
72-73	29
70-71	28
68-69	27
66-67	26
63-65	25
61-62	24
59-60	23
57-58	22
55-56	21
52-54	20
50-51	19
48-49	18
46-47	17
44-45	16
41-43	15
39-40	14
37-38	13
35-36	12

33-34	11
30-32	10
28-29	9
26-27	8
24-25	7
22-23	6
19-21	5
17-18	4
15-16	3
13-14	2
11-12	1
0-10	0

5. Educational Quality (45 point maximum for basic grants) (53 point maximum for pilot projects)

Category	Points
Needs Assessment	6
Objectives	6
Activities	21
Resource Management	6
Evaluation	6
Replicability	8 points (pilot projects only)

*See the explanation that follows on how this will be measured.

METHOD OF COMPUTING EFFECTIVE NET REDUCTION IN MINORITY GROUP ISOLATION

Items 3 and 4 in the preceding rating scale will both be computed as the difference between two numbers over the period of time between the applicant's base year and the applicant's project year. The base year is defined to be the school year immediately preceding the implementation of the district's current desegregation plan or plan to reduce minority group isolation. The project year is defined to be the current school year, or, if the proposal is for a plan to be implemented, the project year is defined to be the first year of implementation (for example, the school year immediately following the current school year). The following computations will be performed for both of these years in order to determine the effective net reduction in minority group isolation over this time period. A hypothetical example of a school district is used to help explain the necessary calculations.

Item 3. Effective Net Reduction of Minority Group Isolation--Number of Children

For each appropriate year, each minority student in the district will be counted according to the following weighting scheme (which depends only on the minority composition of that student's school):

Minority Students in Schools with the Following Percentage of Minority Students	Weight Assigned to Each Minority Student
95-100%	0.0
90-94.9	0.1
85-89.9	0.2
80-84.9	0.3
75-79.9	0.4
70-74.9	0.5
65-69.9	0.6
60-64.9	0.7
55-59.9	0.8
50-54.9	0.9
0-49.9	1.0

Once each minority student is appropriately weighted for each year, the students' weights will be added together (separately for each year). Then the total of these weights for the base year will be subtracted from the total of these weights for the project year. This difference will then be applied to the rating scale given for Item 3 to determine the number of funding points for this criterion.

EXAMPLE

A hypothetical school district with the following enrollment patterns in its base year will be used throughout this explanation:

BASE YEAR

School	Number of Minority Children	Number of Non-Minority Children	Total Enrollment	Percent Minority
A	3,000	500	3,500	86%
B	0	3,000	3,000	0%
C	0	3,500	3,500	0%
Totals:	3,000	7,000	10,000	30%

Now suppose that, in its project year, this school district has the following enrollment pattern:

PROJECT YEAR

School	Number of Minority Children	Number of Non-Minority Children	Total Enrollment	Percent Minority
A	1,500	1,500	3,000	50%
B	1,000	2,500	3,500	29%
C	500	3,000	3,500	14%
Totals:	3,000	7,000	10,000	30%

a) Total weight for the base year

This figure is obtained by adding up each minority student's weight. Since all minority students in the base year were in School A and since School A was 86% minority, the table of weights above indicates that each minority student is to be weighted 0.2 (since this is the weight for the 85-89% minority range). Therefore, the total weight for this district's base year is:

$$3,000 \times 0.2 = 600.$$

The table below summarizes how this total weight is derived.

TOTAL WEIGHT FOR BASE YEAR

School	Number of Minority Children	Weight for Each Minority Child	Total Weight for Each School
A	3,000	0.2	600
B	0	---	---
C	0	---	---
Totals:	3,000		600

b) Total weight for the project year.

The procedure is the same for the project year as it was for the base year. However, in this district's project year, 2,500 minority students are in schools that are less than 50% minority (1,000 in School B and 500 in School C). These students, therefore, are all weighted 1.0. The students in School A, on the other hand, will only be weighted 0.9, since School A is now exactly 50%. The total weight for School A, therefore, will be:

1,500 x 0.9 = 1,350

The table below summarizes how the total weight for the project year is derived:

TOTAL WEIGHT FOR PROJECT YEAR

School	Number of Minority Children	Weight for Each Minority Child	Total Weight for Each School
A	1,500	0.9	1,350
B	1,000	1.0	1,000
C	500	1.0	500
Totals:	3,000		2,850

c) Total points for Item 3

To obtain this district's total points for this criterion (Item 3), subtract the total weight for the base year (600) from the total weight for the project year (2,850):

2,850 - 600 = 2,250

Referring to the rating scale for Item 3, this number (2,250) is between 2,000 and 2,999 and therefore, the number of points for this district on Item 3 is 3.

Item 4. Effective Net Reduction of Minority Group Isolation--Percentage of Children

For each of the two years (base year and project year), the weighted total computed above for Item 3 is taken as a percentage of the total number of minority students in the district in the appropriate year (which will be either the base year or the project year). This percentage figure for the base year will be subtracted from the percentage figure for the project year. This difference will then be applied to the rating scale given for Item 4 to determine the funding points for this criterion.

EXAMPLE

a) Percentage figure for the base year

To calculate the net reduction of minority group isolation in terms of "percentage of children" for Item 4 in the base year, the total weight for that year (which was computed above for the hypothetical district to be 600) is taken as a percentage of the total number of minority students in the district in that year (which was 3,000 for the hypothetical district). In other words, the base year percentage figure for this district is:

$$\frac{600}{3{,}000} = 20\%$$

b) Percentage figure for the project year

To calculate the "percentage of children" figure for this district in its project year, the total weight for that year (which was computed above to be 2,850) is taken as a percentage of the total number of minority students in the district in that year (which was 3,000). In other words, the project year percentage figure for this district is:

$$\frac{2{,}850}{3{,}000} = 95\%$$

c) Total points for Item 4

To obtain this district's total points for Item 4, subtract the percentage figure for its base year (20%) from the percentage figure for its project year (95%):

$$95\% - 20\% = 75\%$$

Referring to the rating scale for Item 4, this number (75%) is between 74% and 76%. Therefore, the number of points received by this district for Item 4 is 30.

QUALITY CRITERIA FOR BASIC LEA GRANTS AND PILOT PROJECTS

Using the following set of criteria the panel members will judge the quality of applications for basic LEA grants and for pilot projects. The criteria are based on five categories for basic grants and six categories for pilot projects, with a maximum of points for each category.

Category		Points
I.	Needs Assessment	6 points maximum
II.	Objectives	6 points maximum
III.	Activities	21 points maximum
IV.	Resource Management	6 points maximum
V.	Evaluation	6 points maximum
VI.	Replicability	8 points maximum (Pilot Projects Only)

The ratings of the four panelists will be averaged to determine the application's final quality rating.

I. Needs Assessment - 6 points

In order for the project to fulfill the purposes outlined in the legislation, it must deal with one of two general areas of need. It must either seek to resolve problems directly related to desegregation or reduction in minority group isolation or it must seek to overcome problems created by the adverse educational effects of minority group isolation.

For the panel to evaluate the educational quality of the program, the LEA's needs must be carefully delineated and fully substantiated. The number of points given under this section will depend on the seriousness of the problems identified and degree to which they are substantiated with data.

A judgment will be made by the panel as to the severity of the needs to be addressed by the LEA. For example, high points will be given to districts that identify and substantiate with test data the largest achievement disparities between minority and nonminority students in the areas of reading and mathematics and the specific schools where these disparities are greatest.

Low points will be given to those districts that identify only minor racial tension problems without adequate supportive evidence of the need. High points would be given when problems are major and data adequate.

If the district's needs are not supported by data, the application is to be returned to the district for resubmission with technical assistance to be provided by the regional office.

The following provides guidelines on the types of data to be provided and their relative value:

1. At a minimum, standardized test data for all students in the district will constitute a first level of response, since it will provide a basis for evaluating the applicant's method of establishing priorities. This data should be of such a nature as to facilitate comparison of student achievement levels with State and/or national norms and information documenting the validity and reliability of the standardized tests employed should be specifically stated. Such data should substantiate the applicant's selection of target schools, grades, and subject matter. It should be clear from the priority areas that the applicant intends to use grant money to benefit the students with the most severe and demonstrable academic deficiencies.

2. A higher level of comprehensiveness will include such data for several subject areas and an analysis of existing discrepancies.

3. A still more complete needs assessment will include specific data on such problems as dropouts, loss of white enrollment, racial tension, and lack of community support.

II. Objectives - 6 points

A. Objectives must flow directly from the needs assessment. They should include all the goals which the project will seek to achieve. If objectives do not flow from the needs assessment, the application is to be returned to the district for resubmission.

B. High points will be given to objectives that include the following elements (0-3 points):

1. Specifies the population to be measured.
2. Specifies what is being measured.
3. Specifies the instructional period to be measured.
4. Specifies the expected outcome behavior or action.
5. Specifies the percentage of the population that will achieve the expected behavior.
6. Specifies how the behavior will be measured.
7. Specifies when the measuring instruments will be applied.

An example objective containing these elements is:

> At the conclusion of the project period of September 1, 1974, to June 15, 1975, 80% of the third grade pupils in school x will gain 1.2 years in reading comprehension as measured on standardized test form y over a pre-test score on standardized test form x administered in September 1974.

C. High points will be given to project objectives that are realistically achievable yet seek to attain significant progress toward meeting the needs identified in Section I (0-3 points).

D. It is emphasized that the extent to which applicants meet stated objectives will be considered in requests for continuation funding.

III. Activities - 21 points

A. Relation of Activities to Needs and Objectives

A logical sequence must exist between the activities which compose the project and the objectives which have been developed as a result of the needs assessment. Such a relationship should be apparent in each of the activities without exception. Activities which bear no relationship to the program objectives will not be funded.

B. Program Design - 11 points

The program design should demonstrate several specific characteristics as outlined below. The application will be given points according to the number of such characteristics it shows, as well as how well they have been made integral parts of the program.

1. Services should be concentrated upon a limited and specified number of children in order to give greater promise of measurable growth for each child involved (0-3 points).
2. Services should be intensive to give promise of measurable growth (0-2 points).
3. Heavy emphasis should be given to individualized instruction or services. The starting point should be the continuing diagnosis of the unique needs of program participants and activities should center upon those needs as they are identified (0-2 points).
4. Students should have the opportunity to make contributions to and suggest constructive changes in their activities (0-2 points).
5. Activities should promote knowledge of and appreciation for interracial and inter-ethnic culture, history or characteristics. In pilot projects, the instructional design should also show how the program will eventually result in interracial or inter-ethnic activities (0-2 points).

C. Staffing - 3 points

1. Applications should contain an adequate staffing plan to implement the project including a description of how the LEA will make maximum use of the competencies of the present staff (0-1 point).
2. High points will be given for ongoing and continuing training to increase the effectiveness of the project activities (0-2 points).

a. Training must upgrade staff skills in relation to the needs identified.
b. Training might also increase staff capability for working with interracial or inter-ethnic groups.
c. As part of any training program, provision should be made for evaluating its effectiveness in terms of specific behavioral goals.

D. Delivery of Services - 3 points

High points will be given when the applicant presents a plan to meet the logistical arrangements for the project, such as facilities and equipment (0-3 points).

E. Parent/Community Involvement - 4 points

1. Fulfillment of legislative requirements for the advisory committee and for public hearings will be regarded as the minimum response. More extensive and specific delineation of community participation will merit assignment of points in this category.
2. High points will be given to applicants who present evidence in the application that parents and community residents have been encouraged to participate and have, in fact, participated (0-2 points).
3. High points will be given to applicants who show clearly the role the advisory committee and parents will play in project implementation and the other opportunities that will be made available for parent and community participation. Functions and activities should be spelled out in order to assure continuous and meaningful involvement in all facets of the project (0-2 points).

IV. Resource Management - 6 points

A. Per pupil expenditures for students served by the project should be of sufficient magnitude to give promise of meeting project objectives (0-2 points).

B. Project costs should be reasonable in relation to expected outcomes (0-2 points).

C. Purchase of equipment should be kept to an absolute minimum. Any funds requested for this purpose should be justified in detail. Where more economical, equipment should be leased or rented (0-1 point).

D. The application should include a description of how this project will be integrated with existing programs and resources so that they are mutually supportive (0-1 point).

V. Evaluation - 6 points

Evaluation is a direct function of project objectives. High points will be given for evaluation designs which quantifiably measure the attainment of all objectives in the project. To be most productive, evaluation should take place on an on-going basis throughout the life of the project. Evaluative instruments or procedures for selecting the instruments should be described. The application should specify the timetable for gathering data and the method for revising the project in light of evaluation results. Where appropriate, evaluation designs should include the use of control groups. If locally designed evaluative instruments are to be used, methods of determining their reliability and validity should be described.

VI. Replicability - 8 points for pilot projects only.

The pilot project component of ESAA was designed to support small-scale experimentation and testing of promising projects in urbanized and/or majority-minority settings. The purpose of this program is to determine what activities are successful in such settings and to make their experiences available to other LEAs. Replicability must therefore be built into the project. To do this, the application should reflect the following considerations:

A. The needs assessment and evaluation design must be particularly thorough in order to assure sufficient data for making decisions on replicability. The deficiencies which the project is intended to correct and the evaluative mechanisms must be made absolutely explicit (0-2 points).

B. The recipient of a pilot project grant must show a willingness to:

1. Replicate some or all of the project activities in other schools within the LEA, and
2. Demonstrate the project to interested observers and make available staff members as well as materials, equipment, and facilities which are relevant to the project.

The application should include a plan for accomplishing the above two activities (0-2 points).

C. The application should include a plan for documenting the methods and approaches of project implementation throughout the project year as well as a plan for collecting and organizing such information so as to make it available to other school districts interested in replicating all or part of the pilot project (0-2 points).

D. To increase the likelihood of successful replication, pilot projects should be constructed around activities of modest or average cost (0-2 points).

1. Therefore, all secondary operating costs such as duplication of materials and overhead should be outlined in detail. Even if such costs are covered by local contribution, they should be reported by the LEA in order to provide a guideline for future replication.
2. Similarly, one-time developmental costs should be noted since such costs would not be required in future replication.

CRITERIA FOR NONPROFIT ORGANIZATIONS PROJECTS
(P.L. 92-318 Emergency School Aid Act)

Overview

The criteria to be used in reviewing applications for Nonprofit Organizations projects are listed in Section 185.64 of the Regulations governing the Emergency School Aid Act (ESAA) and are also presented in this document. The evaluation of the application according to these criteria is only part of the extensive examination which each application will be given. When an application is received in the regional office, it will be subjected to several different reviews in order to determine whether or not it should be funded and, if so, at what level.

- The plan for desegregation or for the reduction, elimination, or prevention of minority group isolation of the local educational agency (LEA) whose plan the applicant proposes to support will be reviewed by the HEW Office for Civil Rights (OCR) in order to determine whether or not it qualifies as an eligible plan under Section 706 of the Act.

- THE APPLICATION WILL BE REVIEWED JOINTLY BY A PROGRAM OFFICER AND A CONTRACTING OFFICER TO IDENTIFY ALL PROJECT ACTIVITIES WHICH ARE NOT EXPRESSLY AUTHORIZED BY SECTION 185.62 OF THE REGULATIONS AND TO IDENTIFY ALL PROJECT COSTS WHICH ARE NOT ALLOWABLE UNDER THE RESTRICTIONS DESCRIBED IN THE ESAA REGULATIONS.

- The applicant's compliance with the assurances listed at the end of the application will be checked by a program officer, a contracting officer, and an OCR representative.

- The program officer will compute the applicant's statistical score based on the first four of the five rating scales shown below. The first and second scales indicate the extent of minority group enrollment in the LEA whose plan the applicant proposes to support. The third and fourth scales show the effective net reduction in minority group isolation taking place since initiation of the LEA's current plan. Data to be used in making the ratings on these four categories will be taken from the LEA's application for ESAA funds, if the LEA has applied. If it has not applied, the nonprofit organization will be required to supply the necessary data. The statistical score derived from these four scales will be added to the applicant's quality score to determine the composite score.

- The educational quality score will be determined by a four-member non-Federal panel made up of persons having an understanding of education programs and of school desegregation. EACH PANELIST WILL MAKE AN INDEPENDENT RATING OF THE EDUCATIONAL QUALITY OF THE APPLICATION USING THE CRITERIA CONTAINED HERE. THE RATINGS OF THE FOUR PANELISTS WILL BE TOTALED AND DIVIDED BY FOUR TO OBTAIN THE QUALITY SCORE FOR THE APPLICATION. In the course of their consideration of each application, the panel may recommend the deletion of items which they judge to be inconsistent with the purposes stated in Section 702(b) of the Act.

- The panel may also recommend that changes be made in other program items, in order to increase the likelihood of their future effectiveness. The quality criteria are summarized in the fifth rating scale below, and are fully described in the last section of this document.

- Next, the administrative review of the budget will be conducted by a program officer and a contracting officer. This review will examine the recommendations of the panel members and make adjustments in the budget to reflect the recommendations. All such changes will be designed either to make the application more consistent with the purposes of the Act or to adjust the costs proposed in the application to make them more reasonable.

- The regional ESAA program manager will conduct the final review. He will bring together the results of the previous reviews along with any comments offered by the nonprofit organization's district-wide advisory committee, the State educational agency, and the HEW Regional Director. The program manager will make the final decisions on the panel's recommendations, give his concurrence to the administrative review, and recommend the funding level for the application. If a problem exists which cannot be quickly resolved, the applicant will be given the opportunity to revise and resubmit his application, with assistance offered by the regional office. If no problems exist in any of the areas reviewed by the program manager or in any of the areas previously reviewed, the application will be placed on a list of applications which will be funded to the extent that funds are available. A separate list of nonprofit organization applicants will be compiled for each State. On the list, applications will be ranked according to the magnitude of their composite scores. Funding will begin with the highest rated applications and proceed to those with ratings which are lower, with funding continuing so long as money remains available for nonprofit organization programs within the particular State. Where more than one nonprofit organization seeks to provide similar services to the same LEA, only the highest rated proposals will be funded. Normally, no more than 33% of the State's allocation for nonprofit organizations will go to groups applying to support the plan of the same LEA.

RATING SCALE FOR NONPROFIT GROUPS PROJECTS

1. Percentage of Minority Students in LEA (15 point maximum for LEAs; 7 1/2 point maximum for nonprofit groups)*

Percent Minority Students	Points
Over 80	15
70-79.9	14
60-69.9	13
50-59.9	12
45-49.9	11
40-44.9	10
35-39.9	8
30-34.9	6
25-29.9	4
20-24.9	2
10-19.9	1
Under 10	0

2. Number of Minority Students in LEA (15 point maximum for LEAs; 7 1/2 point maximum for nonprofit groups)*

Number of Minority Students	Points
Over 50,000	15
40,000-49,999	14
30,000-39,999	13
20,000-29,999	12
15,000-19,999	11
10,000-14,999	10
8,000- 9,999	9
7,000- 7,999	8
6,000- 6,999	7
5,000- 5,999	6
4,000- 4,999	5
3,000- 3,999	4
2,000- 2,999	3
1,000- 1,999	2
100- 999	1
0- 99	0

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*These scales are also being used in rating applications from local educational agencies. However, the total number of points available will be halved when rating nonprofit group applications.

3. Effective Net Reduction of Minority Group Isolation--Number of Children (25 point maximum for LEAs; 12 1/2 point maximum for nonproft groups)* **

Number of Minority Students	Points
Over 15,000	25
14,000-14,999	23
13,000-13,999	22
12,000-12,999	20
11,000-11,999	18
10,000-10,999	17
9,000- 9,999	15
8,000- 8,999	13
7,000- 7,999	12
6,000- 6,999	10
5,000- 5,999	8
4,000- 4,999	7
3,000- 3,999	5
2,000- 2,999	3
1,000- 1,999	2
100- 999	1
0- 99	0

4. Effective Net Reduction of Minority Group Isolation--Percentage of children (35 point maximum for LEAs; 17 1/2 point maximum for nonprofit groups)* **

Measure	Points
85-100	35
83-84	34
81-82	33
79-80	32
77-78	31
74-76	30
72-73	29
70-71	28
68-69	27
66-67	26
63-65	25
61-62	24
59-60	23
57-58	22
55-56	21
52-54	20
50-51	19
48-49	18
46-47	17
44-45	16
41-43	15

39-40	14
37-38	13
35-36	12
33-34	11
30-32	10
28-29	9
26-27	8
24-25	7
22-23	6
19-21	5
17-18	4
15-16	3
13-14	2
11-12	1
0-10	0

5. Quality Criteria (45 points maximum)

The assignment of points in this category will be based on five areas of evaluation, with a maximum number of points which may be assigned under each area.

I.	Needs Assessment	6 points total
II.	Objectives	6 points total
III.	Activities	21 points total
IV.	Resource Management	6 points total
V.	Evaluation	6 points total

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*These scales are also being used in rating applications from local educational agencies. However, the total number of points available will be halved when rating nonprofit group applications.

**See the explanation that follows on how this will be measured.

METHOD OF COMPUTING EFFECTIVE NET REDUCTION IN MINORITY GROUP ISOLATION

Items 3 and 4 in the preceding rating scale will both be computed as the difference between two numbers over the period of time between the applicant's base year and the applicant's project year. The base year is defined to be the school year immediately preceding the implementation of the district's current desegregation plan or plan to reduce minority group isolation. The project year is defined to be the current school year, or, if the proposal is for a plan to be implemented, the project year is defined to be the first year of implementation (for example, the school year immediately following the current school year). The following computations will be performed for both of these years in order to determine the effective net reduction in minority group isolation over this time period. A hypothetical example of a school district is used to help explain the necessary calculations.

Item 3. Effective Net Reduction of Minority Group Isolation--Number of Children

For each appropriate year, each minority student in the district will be counted according to the following weighting scheme (which depends only on the minority composition of that student's school):

Minority Students in Schools with the Following Percentage of Minority Students	Weight Assigned to Each Minority Student
95-100%	0.0
90-94.9	0.1
85-89.9	0.2
80-84.9	0.3
75-79.9	0.4
70-74.9	0.5
65-69.9	0.6
60-64.9	0.7
55-59.9	0.8
50-54.9	0.9
0-49.9	1.0

Once each minority student is appropriately weighted for each year, the students' weights will be added together (separately for each year). Then the total of these weights for the base year will be subtracted from the total of these weights for the project year. This difference will then be applied to the rating scale given for Item 3 to determine the number of funding points for this criterion.

EXAMPLE

A hypothetical school district with the following enrollment patterns in its base year will be used throughout this explanation:

BASE YEAR

School	Number of Minority Children	Number of Non-Minority Children	Total Enrollment	Percent Minority
A	3,000	500	3,500	86%
B	0	3,000	3,000	0%
C	0	3,500	3,500	0%
Totals:	3,000	7,000	10,000	30%

Now suppose that, in its project year, this school district has the following enrollment pattern:

PROJECT YEAR

School	Number of Minority Children	Number of Non-Minority Children	Total Enrollment	Percent Minority
A	1,500	1,500	3,000	50%
B	1,000	2,500	3,500	29%
C	500	3,000	3,500	14%
Totals:	3,000	7,000	10,000	30%

a) Total weight for the base year

This figure is obtained by adding up each minority student's weight. Since all minority students in the base year were in School A and since School A was 86% minority, the table of weights above indicates that each minority student is to be weighted 0.2 (since this is the weight for the 85-89% minority range). Therefore, the total weight for this district's base year is:

$$3,000 \times 0.2 = 600.$$

The table below summarizes how this total weight is derived.

TOTAL WEIGHT FOR BASE YEAR

School	Number of Minority Children	Weight for Each Minority Child	Total Weight for Each School
A	3,000	0.2	600
B	0	---	---
C	0	---	---
Totals:	3,000		600

b) Total weight for the project year.

The procedure is the same for the project year as it was for the base year. However, in this district's project year, 2,500 minority students are in schools that are less than 50% minority (1,000 in School B and 500 in School C). These students, therefore, are all weighted 1.0. The students in School A, on the other hand, will only be weighted 0.9, since School A is now exactly 50%. The total weight for School A, therefore, will be

1,500 x 0.9 = 1,350

The table below summarizes how the total weight for the project year is derived:

TOTAL WEIGHT FOR PROJECT YEAR

School	Number of Minority Children	Weight for Each Minority Child	Total Weight for Each School
A	1,500	0.9	1,350
B	1,000	1.0	1,000
C	500	1.0	500
Totals:	3,000		2,850

c) Total points for Item 3

To obtain this district's total points for this criterion (Item 3), subtract the total weight for the base year (600) from the total weight for the project year (2,850):

2,850 - 600 = 2,250

Referring to the rating scale for Item 3, this number (2,250) is between 2,000 and 2,999 and therefore, the number of points for this district on Item 3 is 3.

Item 4. Effective Net Reduction of Minority Group Isolation--Percentage of Children

For each of the two years (base year and project year), the weighted total computed above for Item 3 is taken as a percentage of the total number of minority students in the district in the appropriate year (which will be either the base year or the project year). This percentage figure for the base year will be subtracted from the percentage figure for the project year. This difference will then be applied to the rating scale given for Item 4 to determine the funding points for this criterion.

EXAMPLE

a) Percentage figure for the base year

To calculate the net reduction of minority group isolation in terms of "percentage of children" for Item 4 in the base year, the total weight for that year (which was computed above for the hypothetical district to be 600) is taken as a percentage of the total number of minority students in the district in that year (which was 3,000 for the hypothetical district). In other words, the base year percentage figure for this district is:

$$\frac{600}{3,000} = 20\%$$

b) Percentage figure for the project year

To calculate the "percentage of children" figure for this district in its project year, the total weight for that year (which was computed above to be 2,850) is taken as a percentage of the total number of minority students in the district in that year (which was 3,000). In other words, the project year percentage figure for this district is:

$$\frac{2,850}{3,000} = 95\%$$

c) Total points for Item 4

To obtain this district's total points for Item 4, subtract the percentage figure for its base year (20%) from the percentage figure for its project year (95%):

$$95\% - 20\% = 75\%$$

Referring to the rating scale for Item 4, this number (75%) is between 74% and 76%. Therefore, the number of points received by this district for Item 4 is 30.

QUALITY CRITERIA FOR NONPROFIT GROUPS

Each panelist will read the application and assign points in each area according to the extent to which the application meets the standards set in the criteria.

I. Needs Assessment - 6 points total

Assessment of the community's desegregation-related needs must be directed at the legislative requirements. The group's proposed program must be in support of the development or implementation of a plan, program, or activity being conducted by the local educational agency for desegregation or the reduction of minority group isolation. Within this limitation, funding priority will be given to programs which attempt to satisfy needs for improved interracial understanding and increased interaction among students, parents, teachers, and the community in general. Such direction should not, however, preclude the investigation of other areas of exceptional educational need, so long as they are consistent with the program's legislative intent. Points will be awarded according to the degree of cooperation achieved with the LEA, the magnitude of the stated needs, and the data offered to substantiate these assessments.

A. Cooperation with the local education agency

Credit will be given for analysis of the community's desegregation-related needs which has been conducted jointly by the nonprofit group and the LEA. When they have identified the most important needs, the nonprofit group should decide with the local educational agency which can be met most effectively through activities directed by their organization. Ordinarily, these will be needs which the LEA lacks the resources to meet or which may be more appropriately met by a nonprofit group working with the community at large.

Just as the nonprofit group has the responsibility for planning cooperatively with the LEA, the LEA shares the same duty. It should make available information needed by the group in formulating its plans and completing the ESAA application. This may include data regarding minority group isolation, academic achievement, the LEA's resources, and other information.

To receive points in this category, the nonprofit group should demonstrate a serious attempt to achieve substantial cooperation with the LEA. If the LEA makes no positive response to overtures by the group, the application should outline in detail how the LEA was approached and all efforts which were made by the nonprofit group to achieve cooperation. Appropriate evidence of such attempts would be correspondence with the LEA and any other communications initiated by the nonprofit group. If the LEA is cooperative, the application should indicate meetings, correspondence, and other communications which played a part in the coordination effort. The application should also outline the results achieved through this cooperative effort. In addition, the applicant should outline the coordination of effort that the nonprofit group's Advisory Committee has achieved with the Advisory Committee established by the LEA to develop and implement its ESAA proposal if, in fact, the LEA is applying for ESAA funds (0-3 points).

B. Magnitude of needs

High points will be given for objective evidence which backs up the needs priority indicated in the application and which proves the seriousness and immediacy of the need. Depending on the nature of the need, such evidence will be in the form of community attitudinal surveys, incidents of racial disruptions in the schools and community, test scores reflecting student academic achievement, loss of white enrollment, number of contacts made between students' homes and the schools, or any other kind of evidence that is relevant. The magnitude of need, which is reflected in this evidence, should conform to the relative importance of each need as reflected in the needs priority. Applications demonstrating greatest need will receive highest points in this category (0-3 points).

II. Objectives - 6 points total

A. Objectives stated in the application must be shown to flow directly from the needs assessment. They should include all the goals which the project will seek to achieve. If objectives do not flow from the needs assessment, the application will be returned to the applicant for resubmission.

B. High points will be given to objectives that include the following elements (0-3 points).

1. Specifies the population to be measured.

2. Specifies what is being measured.

3. Specifies the time period to be measured.

4. Specifies the expected outcome behavior or action.

5. Specifies the percentage of the population that will achieve the expected behavior.

6. Specifies how the behavior will be measured.

7. Specifies when the measuring instruments will be applied.

An example of an objective containing these elements is:

> At the conclusion of the project period of September 1, 1974, to June 15, 1975, the number of home/school contacts involving parents and teachers of fourth-grade students at school x will have increased by 80% over the number of contacts between parents and teachers of third-grade students at school x for the 1973-74 school year. Home/school contacts will include visits of parents to the school to meet with their children's teachers and visits of teachers to the children's home. The number of visits made in the 1973-74 school year will be determined on the basis of estimates made by parents and teachers in the last week of September 1974. They will then be asked to keep a count of all such contacts made during the 1974-75 project period. The individual counts will be collected and averages determined in the first week of June 1975.

C. High points will be given for objectives which offer a reasonable probability of success, given the nonprofit group's particular resources, capabilities, and period of funding. (The resources here should include those requested in the application.) Evidence for this will be apparent in the extent to which the program design draws on talent and resources already existing in the community, including those of other public or private nonprofit groups, and the extent to which requested resources strengthen and build on existing ones (0-3 points).

III. Activities - 21 points total

A. Relation of activities to objectives

A logical sequence must exist between the activities which comprise the project and the objectives which have been developed as a result of the needs assessment. Such a relationship should be apparent in each of the activities without exception. Activities which bear no relationship to the program objectives will not be funded. Applicants who show no such relationship will be asked to revise and resubmit their application.

B. Project Design - 8 points

1. High points will be given for project activities which complement activities being carried out by the LEA. Duplication of effort should be carefully avoided. Evidence for this will be a description in the application stating how proposed activities will complement existing school programs (0-2 points).

2. Credit will be given to proposals which represent an integration of efforts among several cooperating nonprofit groups. High points will be given to proposals which give evidence of cooperation among all nonprofit groups in the community which would otherwise have submitted individual applications (0-2 points).

3. Credit will be given for activities which create an opportunity for interracial or interethnic involvement by students, parents, LEA personnel, and other persons in the community (0-1 point).

4. Credit will be given for activities which are structured to promote interracial or interethnic understanding and appreciation (0-1 point).

5. Credit will be given for evidence of increased opportunities for contact between parents and the school (0-1 point).

6. Credit will be given for proposals which utilize students' homes as a base of activities (0-1 point).

C. Staffing - 3 points

1. Credit will be given for evidence of a plan to attract and hire qualified staff members and other personnel (0-1 point).

2. Credit will be given to proposals giving evidence that qualified applicants for staff positions living in the community will be given priority over applicants from outside (0-1 point).

3. Credit will be given for evidence that staff members, both salaried and volunteer, will receive thorough training by project leaders and other appropriate persons. Where possible, it is desirable that community members with appropriate experience be utilized as trainers (0-1 point).

D. Delivery of services - 4 points

The project application should give evidence that the proposed activities can be realistically implemented and delivered to the participants in such a way as to fulfill the project objectives. In particular logistical arrangements, such as facilities and communications, should be carefully planned.

1. High points will be given for proof that the proposed facilities are adequate for the needs of the program and are located where they will be accessible to all the persons for whom the program is intended (0-2 points).

2. High points will be given for plans for day-to-day communication of program activities and events, so that the persons whom the program is intended to benefit will know what is taking place (0-2 points).

E. Parent/Community Involvement - 6 points

1. Credit will be given to any group which presents evidence that it has attempted to include in its Advisory Committee persons representing a broad spectrum of outlooks and experiences within the community to be served. Full credit will be given for this criterion if evidence is presented to show that the Advisory Committee includes persons with experience in the area of desegregation and reduction of minority group isolation (0-3 points).

2. Credit will be given if the applicant specifies roles and responsibilities for the Advisory Committee beyond those required in the regulations (0-1 point).

3. High points will be given for evidence of extensive and intensive involvement of community residents and parents at every level of the project. Evidence for this would be a description of who the target participants will be and how they will be urged to participate in program activities (0-2 points).

IV. Resource Management - 6 points total

The total project cost and the cost of individual project components must be reasonable in terms of the proposed objectives.

A. High points will be given if evidence is presented to show that the funds requested are of sufficient magnitude to give substantial promise of achieving their purpose. Such evidence should be contained in a clear and detailed breakdown of the project budget (0-2 points).

B. High points will be given for proof that project costs are reasonable in relation to expected outcomes (0-2 points).

C. High points will be given for budgets which hold requests for equipment to an absolute minimum. Any funds requested for this purpose should be justified in detail. Where more economical, equipment should be leased or rented (0-2 points).

V. Evaluation - 6 points

The evaluation design must provide a format in which project coordinators will be able to measure objectively whether or not project activities have been achieved. Applications which do not demonstrate such a design will be returned for revision and resubmission.

A. Credit will be given for the description of the timetable to be used in gathering data and the proposed method for revising the project in light of evaluation results. High points will be given for projects in which evaluation is a constant and on-going part of the project and in which evaluation results are continually being used to modify implementation techniques (0-4 points).

B. Credit will be given for the description of all evaluative instruments or for the description of the procedures to be used in selecting the instruments. If locally designed evaluative instruments are to be used, methods of determining their reliability and validity should also be described (0-1 point).

C. Credit will be given for evaluation designs which provide for comparison with other programs, control groups, norms, or other external standards (0-1 point).

CRITERIA FOR BILINGUAL/BICULTURAL PROJECTS
(P.L. 92-318 Emergency School Aid Act)

Overview

The criteria to be used in reviewing applications for bilingual/bicultural projects under Section 708(c) of the Act are contained in this document. The criteria are directed to the affected school district's need for assistance, the extent and comprehensiveness of its efforts to reduce minority group isolation, and the educational quality of the activities for which funds are being requested.

The evaluation of the application according to these criteria is only part of the extensive examination which each application will be given. When an application is received in the regional office, it will be subjected to several different reviews in order to determine whether or not it should be funded and, if so, at what level.

- The plan of the affected district for desegregation or for the reduction, elimination, or prevention of minority group isolation will be reviewed by the HEW Office for Civil Rights (OCR) in order to determine whether or not it qualifies as an eligible plan under Section 706 of the Act.

- The application will be reviewed jointly by a program officer and a contracting officer to identify all project activities which are not expressly authorized by Section 708(c) and to identify all project costs which are not allowable under the restrictions described in the ESAA regulations.

- The applicant's compliance with the assurances listed at the end of the application will be checked by a program officer, a contracting officer, and an OCR representative.

- The program officer will compute the applicant's statistical score based on the five scales shown below. The first and second scales indicate the enrollment of students from homes where the dominant language is not English in the affected school district. (Students from such homes will, in this document, be referred to as non-English dominant students. It should be noted that such students are considered minority group members for purposes of Section 708(c) of ESAA.) The third and fourth scales show the effective net reduction in minority group isolation taking place since initiation of the current plan of the affected district.

- The educational quality score will be determined by a four-member non-Federal panel made up of persons having an understanding of bilingual/bicultural education programs and of school desegregation. Each panelist will make an independent rating of the educational quality of the application using the criteria contained here. The ratings of the four panelists will be totaled and divided by four to obtain the quality score for the application. In the course of their consideration of each application, the panel may recommend the deletion of items which they judge to be inconsistent with the purposes stated in Section 702(b) of the Act. The panel may also recommend that changes be made in other program items, in order to increase the likelihood of overall effectiveness of the project.

- Next, an administrative review of the budget will be conducted by a program officer and a contracting officer. This review will examine the recommendations. All such changes will be designed either to make the application more consistent with the purposes of the Act or to adjust the costs proposed in the application to make them more reasonable.

The regional ESAA program manager will bring together the results of the previous reviews along with any comments offered by the Regional Director, the applicant's project committee and the State educational agency. The program manager will consider the panel's recommendations, give his concurrence to the administrative review, and recommend the funding level for the application. If a problem exists which cannot be quickly resolved, the applicant will be given the opportunity to revise and resubmit his application, with assistance offered by the regional office. If no problems exist in any of the areas reviewed by the program manager or in any of the areas previously reviewed, the application will be recommended for funding.

The Regional Commissioner will recommend applications for funding to the Associate Commissioner for Equal Educational Opportunity. Pending approval by the Associate Commissioner, applications will be funded with the highest rated applications receiving funding first and lower rated applications receiving awards so long as funds remain available.

RATING SCALE FOR BILINGUAL/BICULTURAL APPLICATIONS

1. Percentage of students in the affected district from homes where the dominant language is other than English. (15 point maximum)

Percent of Students	Points
Over 80	15
70-79.9	14
60-69.9	13
50-59.9	12
45-49.9	11
40-44.9	10
35-39.9	8
30-34.9	6
25-29.9	4
20-24.9	2
10-19.9	1
Under 10	0

2. Number of students in the affected district from homes where the dominant language is other than English. (15 point maximum)

Number of Students	Points
Over 50,000	15
40,000-49,999	14
30,000-39,999	13
20,000-29,999	12
15,000-19,999	11
10,000-14,999	10
8,000- 9,999	9
7,000- 7,999	8
6,000- 6,999	7
5,000- 5,999	6
4,000- 4,999	5
3,000- 3,999	4
2,000- 2,999	3
1,000- 1,999	2
100- 999	1
0- 99	0

3. Effective net reduction of minority group isolation in the affected district--Number of children (12-1/2 point maximum for bilingual/bicultural projects)* **

Number of Minority Students	Points
Over 15,000	25
14,000-14,999	23
13,000-13,999	22
12,000-12,999	20
11,000-11,999	18
10,000-10,999	17
9,000- 9,999	15
8,000- 8,999	13
7,000- 7,999	12
6,000- 6,999	10
5,000- 5,999	8
4,000- 4,999	7
3,000- 3,999	5
2,000- 2,999	3
1,000- 1,999	2
100- 999	1
0- 99	0

4. Effective net reduction of minority group isolation in the affected district--Percentage of children (17-1/2 point maximum for bilingual/bicultural projects)* **

Measure	Points
85-100	35
83-84	34
81-82	33
79-80	32
77-78	31
74-76	30
72-73	29
70-71	28
68-69	27
66-67	26
63-65	25
61-62	24
59-60	23
57-58	22
55-56	21
52-54	20
50-51	19
48-49	18
46-47	17
44-45	16
41-43	15
39-40	14

37-38	13
35-36	12
33-34	11
30-32	10
28-29	9
26-27	8
24-25	7
22-23	6
19-21	5
17-18	4
15-16	3
13-14	2
11-12	1
0-10	0

5. Educational quality (55 point maximum)

Category	Points
Needs assessment	10
Objectives	6
Activities	28
Resource management	5
Evaluation	6

* These scales are also being used in rating applications for basic grants under the Act. However, the total number of points earned under Tables 3 and 4 will be halved when rating bilingual/bicultural applications.

**See the explanation that follows on how this will be measured.

METHOD OF COMPUTING EFFECTIVE NET REDUCTION IN MINORITY GROUP ISOLATION

Items 3 and 4 in the preceding rating scale will both be computed as the difference between two numbers over the period of time between the applicant's base year and the applicant's project year. The base year is defined to be the school year immediately preceding the implementation of the district's current desegregation plan or plan to reduce minority group isolation. The project year is defined to be the current school year, or, if the proposal is for a plan to be implemented, the project year is defined to be the first year of implementation (for example, the school year immediately following the current school year). The following computations will be performed for both of these years in order to determine the effective net reduction in minority group isolation over this time period. A hypothetical example of a school district is used to help explain the necessary calculations.

Item 3. Effective Net Reduction of Minority Group Isolation--Number of Children

For each appropriate year, each minority student in the district will be counted according to the following weighting scheme (which depends only on the minority composition of that student's school):

Minority Students in Schools with the Following Percentage of Minority Students	Weight Assigned to Each Minority Student
95-100%	0.0
90-94.9	0.1
85-89.9	0.2
80-84.9	0.3
75-79.9	0.4
70-74.9	0.5
65-69.9	0.6
60-64.9	0.7
55-59.9	0.8
50-54.9	0.9
0-49.9	1.0

Once each minority student is appropriately weighted for each year, the students' weights will be added together (separately for each year). Then the total of these weights for the base year will be subtracted from the total of these weights for the project year. This difference will then be applied to the rating scale given for Item 3 to determine the number of funding points for this criterion.

EXAMPLE

A hypothetical school district with the following enrollment patterns in its base year will be used throughout this explanation:

BASE YEAR

School	Number of Minority Children	Number of Non-Minority Children	Total Enrollment	Percent Minority
A	3,000	500	3,500	86%
B	0	3,000	3,000	0%
C	0	3,500	3,500	0%
Totals:	3,000	7,000	10,000	30%

Now suppose that, in its project year, this school district has the following enrollment pattern:

PROJECT YEAR

School	Number of Minority Children	Number of Non-Minority Children	Total Enrollment	Percent Minority
A	1,500	1,500	3,000	50%
B	1,000	2,500	3,500	29%
C	500	3,000	3,500	14%
Totals:	3,000	7,000	10,000	30%

a) Total weight for the base year

This figure is obtained by adding up each minority student's weight. Since all minority students in the base year were in School A and since School A was 86% minority, the table of weights above indicates that each minority student is to be weighted 0.2 (since this is the weight for the 85-89% minority range). Therefore, the total weight for this district's base year is:

$$3{,}000 \times 0.2 = 600.$$

The table below summarizes how this total weight is derived.

TOTAL WEIGHT FOR BASE YEAR

School	Number of Minority Children	Weight for Each Minority Child	Total Weight for Each School
A	3,000	0.2	600
B	0	---	---
C	0	---	---
Totals:	3,000		600

b) Total weight for the project year.

The procedure is the same for the project year as it was for the base year. However, in this district's project year, 2,500 minority students are in schools that are less than 50% minority (1,000 in School B and 500 in School C). These students, therefore, are all weighted 1.0. The students in School A, on the other hand, will only be weighted 0.9, since School A is now exactly 50%. The total weight for School A, therefore, will be:

1,500 x 0.9 = 1,350

The table below summarizes how the total weight for the project year is derived:

TOTAL WEIGHT FOR PROJECT YEAR

School	Number of Minority Children	Weight for Each Minority Child	Total Weight for Each School
A	1,500	0.9	1,350
B	1,000	1.0	1,000
C	500	1.0	500
Totals:	3,000		2,850

c) Total points for Item 3

To obtain this district's total points for this criterion (Item 3), subtract the total weight for the base year (600) from the total weight for the project year (2,850):

2,850 - 600 = 2,250

Referring to the rating scale for Item 3, this number (2,250) is between 2,000 and 2,999 and therefore, the number of points for this district on Item 3 is 3.

Item 4. Effective Net Reduction of Minority Group Isolation--Percentage of Children

For each of the two years (base year and project year), the weighted total computed above for Item 3 is taken as a percentage of the total number of minority students in the district in the appropriate year (which will be either the base year or the project year). This percentage figure for the base year will be subtracted from the percentage figure for the project year. This difference will then be applied to the rating scale given for Item 4 to determine the funding points for this criterion.

EXAMPLE

a) Percentage figure for the base year

To calculate the net reduction of minority group isolation in terms of "percentage of children" for Item 4 in the base year, the total weight for that year (which was computed above for the hypothetical district to be 600) is taken as a percentage of the total number of minority students in the district in that year (which was 3,000 for the hypothetical district). In other words, the base year percentage figure for this district is:

$$\frac{600}{3{,}000} = 20\%$$

b) Percentage figure for the project year

To calculate the "percentage of children" figure for this district in its project year, the total weight for that year (which was computed above to be 2,850) is taken as a percentage of the total number of minority students in the district in that year (which was 3,000). In other words, the project year percentage figure for this district is:

$$\frac{2{,}850}{3{,}000} = 95\%$$

c) Total points for Item 4

To obtain this district's total points for Item 4, subtract the percentage figure for its base year (20%) from the percentage figure for its project year (95%):

$$95\% - 20\% = 75\%$$

Referring to the rating scale for Item 4, this number (75%) is between 74% and 76%. Therefore, the number of points received by this district for Item 4 is 30.

QUALITY CRITERIA FOR BILINGUAL/BICULTURAL PROJECTS

This program is designed to meet the special educational needs of children in eligible districts who come from environments where the dominant language is other than English and who, as a result, are denied equality of educational opportunity. The concern is for children in this target group to become more proficient in both their primary language and the English language. Students whose dominant language is English should in most instances participate in this aspect of the program and receive instruction in the language of the non-English dominant students. All students, in addition, will study the cultural and historical heritage of the non-English dominant group as well as that of the English dominant group. Where appropriate, bilingual/bicultural projects must provide for participation by migrant children in need of bilingual/bicultural instruction. In sum, the goals of the program are to develop bilingual language capabilities in all students participating in the program, to promote understanding and appreciation of the cultural values and traditions of all children in the affected district, and to raise the level of achievement for all program participatns.

Using the following set of criteria the panel members will judge the quality of applications for bilingual/bicultural projects. The criteria are based on five categories with a maximum number of points for each category.

	Category	Points
I.	Needs assessment	10 points maximum
II.	Objectives	6 points maximum
III.	Activities	28 points maximum
IV.	Resources management	5 points maximum
V.	Evaluation	6 points maximum

A total of 55 points is allowed for each panelist's rating. The rating of the four panelists will be averaged to determine the application's final quality rating.

I. Needs assessment - 10 points

In order for the project to fulfill the purposes outlined in the legislation, it must deal with the special educational needs of non-English dominant children for improvement in their reading, writing, and speaking skills, and with the educational needs of these children and their English dominant classmates to understand each other's culture and history.

For the panel to evaluate the educational quality of the program, the needs existing in the district to be served must be carefully delineated and fully substantiated. To the extent possible, school districts should measure non-English dominant students' achievement in English, in their dominant language, and in academic subject areas. The number of points given under this section will depend on the severity of the needs identified and degree to which they are substantiated with data.

A judgment will be made by the panel as to the severity of the needs to be addressed. Highest points will be given to applicants which identify and substantiate with test data the largest achievement disparities between non-English dominant and English dominant students in the areas of reading, speaking, and writing and the specific schools where these disparities are greatest.

The program proposal should be prepared in the larger context of how it will be integrated into existing program efforts. This requires a description and analysis of past or present attempts to modify achievement patterns, including projects assisted under Titles I or VII of the Elementary and Secondary Education Act, the Educations Professions Development Act, and any Federally assisted programs for early childhood education.

If the district's needs are not supported by data, the application is to be returned to the applicant for resubmission with technical assistance to be provided by the regional office.

The following provides guidelines on the types of data to be provided and their relative value:

1. At a minimum, standardized test data for all students in the district will constitute a first level of response, since it will provide a basis for evaluating the applicant's method of establishing priorities. This data should be of such a nature as to facilitate comparison of student achievement levels with State and/or national norms and information documenting the validity and reliability of the standardized tests employed should be specifically stated. Such data should substantiate the applicant's selection of target schools and grades. It should be clear from the priority areas that the applicant intends to use grant funds to benefit students with the most severe and demonstrable needs in the area of English language-related skills (0-8 points).

2. A higher level of comprehensiveness will, in addition, include such data as dropout rates and college attendance expectations for non-English dominant students, and information on needs for intercultural understanding in the schools of the affected district (0-2 points).

II. Objectives - 6 points

A. Objectives must flow directly from the needs assessment. They should include all the goals which the project will seek to achieve. If an application does not contain a complete statement of objectives, or if objectives do not flow from the needs assessment, the application is to be returned to the applicant for resubmission with technical assistance to be provided by the regional office.

B. High points will be given to objectives that include the following elements (0-3 points):

1. Specifies the population to be measured.
2. Specifies what is being measured.
3. Specifies the time period over which the measurement will occur.
4. Specifies the expected outcome. (For example, the expected outcome might be expressed in terms of the self-concept development of the minority child, the cognitive skill development of both minority and nonminority children, or the affective development of such children.)
5. Specifies the percentage of the population that will achieve the expected outcome.
6. Specifies how the outcome will be measured.
7. Specifies when the measuring instruments will be applied.

An example objective containing these elements is:

At the conclusion of the project period of September 1, 1974, to June 15, 1975, 80% of the third grade pupils in school x who have participated in the bilingual/bicultural program will gain 1.2 years in reading comprehension as measured on standardized test form y over a pre-test score on standardized test form x administered in September 1974.

C. High points will be given to project objectives that are realistically achievable yet seek to make significant progress toward meeting the needs identified in Section I (0-3 points).

D. It is emphasized that the extent to which applicants achieve stated objectives will be considered in later requests for continuation funding.

III. Activities - 28 points

A. Relation of activities to objectives.

A logical sequence must exist between the activities which comprise the project and the objectives which have been developed as a result of the needs assessment. Such a relationship must be apparent in each of the activities without exception. Activities which bear no relationship to the program objectives will not be funded. Applicants who show no such relationship will be asked to revise and resubmit their application.

B. Program design - 12 points

The program design should demonstrate several specific characteristics. The application will be given points according to the number of such characteristics it shows, as well as how well they have been made integral parts of the program.

Local educational agencies should make maximum use of existing bilingual/bicultural curricula. When an applicant determines that new curricula are necessary for the affected school district, it must describe in detail the process by which that determination was made and must specifically indicate the areas in which the available curricula fail to serve its programmatic objectives. Proposals from LEAs or nonprofit private applicants for curriculum development must be accompanied by plans for implementation of such curricula, whether or not funds are sought for that purpose. The non-Federal panel will then apply the criteria contained in this document to such curriculum development proposals and the accompanying plans for implementation.

The following factors will be considered in evaluating program design:

1. The program design must provide opportunities for the study and appreciation of minority group culture, history, and characteristics in an integrated setting. Points will be awarded for proposed projects which go beyond this basic requirement and provide for imaginative and sensitive cross-cultural exchanges (0-2 points).

2. Services should be concentrated on a limited number of children in order to give greater promise of measurable growth for each child involved (0-1 point).

3. Services should be intensive, that is, presented for a reasonable length of time each day and over a long enough number of days to give promise of measurable growth (0-1 point).

4. Instruction should focus on individual learners, not groups, and include diagnosis of their unique needs. The incentive-motivational, communication, and learning styles of all children should be used to devise varying teaching strategies which will be augmented by diagnostic evaluation and prescriptive approaches to specific areas of learning difficulty. Learning activities should focus on those needs (0-1 point).

5. Additional points will be given for particularly innovative plans to meet the goals of the Act which extend instruction in language skills to other areas of the curriculum in an

integrated setting and which include English dominant children in activities other than those specifically emphasizing cross-cultural appreciation (0-3 points).

6. High points will be awarded to applicants who propose to extend bilingual/bicultural techniques to academic subjects other than those for which assistance is made available under the program (0-2 points).

7. Students should have the opportunity to make contributions to and suggest constructive changes in their instructional activities (0-1 point).

8. The proposed project should make the fullest possible use of existing bilingual/bicultural research and teaching materials (0-1 point).

C. Staffing - 10 points

At a minimum, all applications must demonstrate the existence or availability of a staff capable of implementing the proposed program, project, or activity.

1. Applications should contain an adequate staffing plan for implementation of the project, including a description of how the applicant will make maximum use of the competencies of the present staff in the affected districts. Nonprofit private applicants must demonstrate the existence of or the ability to obtain adequately trained and qualified personnel (0-2 points).

2. High points will be given for ongoing and continuing staff training designed to increase the effectiveness of the project activities. Such training should result in knowledge and appreciation of the language and cultural heritage of minority group students, and in effectiveness in dealing with non-English dominant children (0-5 points).

3. The staffing plan should include credentialed bilingual teachers and provide career development opportunities for paraprofessional staff members with bilingual capabilities (0-3 points).

D. Delivery of services - 2 points

High points will be given when the applicant presents a plan to meet the logistical arrangements for the project, such as facilities and equipment (0-2 points).

E. Parent/Community involvement - 4 points

Fulfillment of legal requirements for the project committee or project board and for public hearings will be regarded as the minimum response. More extensive and specific delineation of community participation will merit assignment of points in this category.

1. High points will be given to applicants who present evidence in the application that parents and community residents have been encouraged to participate and have, in fact, participated in the development of the application (0-2 points).

2. High points will be given to applicants who show clearly the role the project committee or project board and parents will play in project implementation and the other opportunities that will be made available for parent and community participation. Functions and activities should be spelled out in order to assure continuous and meaningful community involvement in all facets of the project (0-2 points).

IV. Resource management - 5 points

A. Per pupil expenditures for the target group of students should be of sufficient magnitude to give promise of meeting project objectives (0-1 point).

B. Project costs are reasonable in relation to expected outcomes (0-1 point).

C. Purchase of equipment should be kept to an absolute minimum. Any funds requested for this purpose should be justified in detail. Where more economical, equipment should be leased or rented (0-1 point).

D. The application should include a description of how this project will be integrated with existing programs and resources so that they are mutually supportive (0-2 points).

V. Evaluation - 6 points

Evaluation as a direct function of project objectives. High points will be given for evaluation designs which quantifiably measure the attainment of all objectives in the project. To be most productive, evaluation should take place on an ongoing basis throughout the life of the project. Evaluative instruments or procedures for selecting the instruments should be described. The application should specify the timetable for gathering data and the method for revising the project in light of evaluation results. Where appropriate, evaluation designs should include the use of control groups. If locally designed evaluative instruments are to be used, methods of determining their realiability and validity should be described.

The evaluation design should include the following features:

A. The achievement tests and any other standardized evaluative instruments should be valid for the population group being served by the project. In validating such tests, specific attention should be paid to the compatibility between the language and cultural referents of the test and test items and the person being tested; the skill of the test administrator in attributing the appropriate significance to the response or nonresponse of the person being tested; the familiarity of the person being tested with the type of behavior which the test expects and rewards; the comfort or discomfort of the person being tested with the testing situation; the motivation which the person being tested has to identify success in the testing situation as a desirable or potentially attainable goal; and any expectation of failure by the persons administering the test.

B. Parents and interested community organizations should be involved in the evaluative process.

CRITERIA FOR GRANTS TO STATE EDUCATIONAL AGENCIES

Statistical Criteria

Points will be given according to the total number of minority students enrolled by desegregating or desegregated school districts which are located within the State and which have requested desegregation assistance from the SEA.

Number of Minority Students	Points
300,000 or more	18
150,000 - 299,999	15
75,000 - 149,999	12
20,000 - 74,999	9
9,000 - 19,999	6
5,000 - 8,999	3
0 - 4,999	0

Quality Criteria

The criteria are divided into five sections with a maximum number of points in each section.

Section	Points
A. Needs Assessment	6 points maximum
B. Objectives	8 points maximum
C. Activities	23 points maximum
D. Resource Management	4 points maximum
E. Evaluation	5 points maximum

The ratings of the panelists will be averaged to determine the application's final quality rating.

A. Needs Assessments - 6 points

The purpose of a State assistance unit is to provide technical assistance to desegregating or desegregated school districts in order to enable them to cope with special educational problems occasioned by desegregation. The needs which will be addressed by the proposed SEA project must be fully outlined and documented in the project application. Data provided as evidence of needs must be sufficiently thorough to convince the panelist that the needs exist. If the needs are not supported by data, the project will not be funded.

Data used to substantiate desegregation-related needs must include letters from desegregating or desegregated school districts outlining specific needs and requesting desegregation assistance from the SEA. The number of such letters received by the applicant and the seriousness of the requests contained therein will be taken into account in determining the number of points assigned in this section. If such letters have not been submitted, the project will not be funded. (It should be noted, however, that a State assistance unit will be responsible for responding to requests for desegregation assistance from any desegregating or desegregated school district within its State, whether or not that district submitted an earlier letter of request as described above.)

The number of points given in this section will depend on the seriousness of the needs identified, the extent to which they are common to all desegregating or desegregated school districts within the State, and the degree to which they are substantiated with data.

The following guidelines described the types of information that may be provided and their relative value:

1. At a minimum, a list must be submitted which shows the names of desegregating or desegregated school districts located within the applicant's State which have requested assistance from the SEA and the total number of minority and nonminority students enrolled by each of them.

2. To receive points in this section, data should be submitted which describes changes in enrollment patterns in school districts requesting assistance, and the reasons for such changes. (0-2 points)

3. A more comprehensive assessment would include data demonstrating the need to modify administrative structures, counseling techniques, instructional methods, and curricular materials for use in desegregated schools. If relevant to the assessed needs, data might also be presented to document differences in achievement levels of minority and nonminority students affected by desegregation. (0-2 points)

4. A still more complete assessment would include data on problems such as dropouts, expulsions, loss of white enrollment, racial tension, and lack of community support for desegregation. (0-2 points)

Information must be presented documenting the status of any desegregation-related legal proceedings involving school districts located within the applicant's State.

B. Objectives - 8 points

Objectives must flow directly from the needs assessment. They should include all the goals which the project will seek to achieve. If objectives do not flow from the needs assessment, the project will not be funded.

1. Points will be given for objectives that include the following elements: (0-6 points)

   - a. The individuals or groups to be assisted
   - b. The needs to be addressed, as identified in the needs assessment
   - c. The expected results
   - d. How the results will be measured

2. Points will be given for project objectives that are realistically achievable within the limits of the project period and the available resources. (0-2 points)

C. Activities - 23 points

A logical sequence must exist between the activities which make up the project and the objectives which have been developed as a result of the needs assessment. Such a relationship should be apparent in each of the activities without exception. Activities which bear no relationship to the program objectives will not be funded.

1. The project design should demonstrate several specific characteristics, as outlined below.

   a. Points will be given for evidence that there will be a continuing flow of information between the State assistance unit and its client school boards. (0-4 points)

   b. Points will be given for activities which are likely to involve a large proportion of desegregating and desegregated school districts within the applicant's State. (0-4 points)

   c. Points will be given for evidence that assistance will be part of a comprehensive long-range planning effort conducted by the applicant. (0-3 points)

   d. Points will be given for evidence that activities will be targeted upon specified classes of individuals in order to increase the likelihood of significant project outcomes. (0-2 points)

2. The application should indicate the qualifications of the SEA in the area of desegregation assistance.

   a. Points will be given for evidence that the SEA employs or will employ persons with substantial experience in the area of desegregation assistance. (0-3 points)

   b. Points will be given for evidence that the staff of the State assistance unit reflects the racial or ethnic composition of the population to be served. (0-3 points)

3. An important measure of the effectiveness of the desegregation assistance unit will be how influential it is in modifying the objectives of other parts of the SEA.

Points will be given for evidence of how the SEA will use this project to focus other State resources on meeting the needs of desegregating or desegregated school districts. (0-4 points)

D. Resource Management - 4 points

Points will be given for evidence that project costs are reasonable in relation to expected outcomes. It must be clear exactly what outcomes will be expected from specific project costs. (0-4 points)

E. Evaluation - 5 points

The evaluation design must provide a format in which State units will be able to measure objectively whether or not project objectives have been achieved.

1. Points will be given for evidence that evaluation will be a constant and ongoing part of the project and that evaluation results will be continually used to modify assistance techniques. (0-3 points)

2. Points will be given for a description of the timetable to be used in gathering evaluation data. (0-2 points)

CRITERIA FOR GRANTS TO SCHOOL BOARDS
(Title IV, Civil Rights Act)

Rating Scale for Grants to School Boards

Points will be given according to the percentage of minority students enrolled in the applicant district and the number of minority students enrolled in the district.

A. Percentage of minority students enrolled in the district (15 point maximum)

Percent Minority Students	Points
80 - 100	15
70 - 79.9	14
60 - 69.9	13
50 - 59.9	12
45 - 49.9	11
40 - 44.9	10
35 - 39.9	8
30 - 34.9	6
25 - 29.9	4
20 - 24.9	2
10 - 19.9	1
0 - 10	0

B. Number of minority students enrolled in the district (15 point maximum)

Number of Minority Students	Points
50,000 or over	15
40,000 - 49,999	14
30,000 - 39,999	13
20,000 - 29,999	12
15,000 - 19,999	11
10,000 - 14,999	10
8,000 - 9,999	9
7,000 - 7,999	8
6,000 - 6,999	7
5,000 - 5,999	6
4,000 - 4,999	5
3,000 - 3,999	4
2,000 - 2,999	3
1,000 - 1,999	2
100 - 999	1
0 - 99	0

Quality Criteria for Grants to School Boards

The criteria are divided into five sections with a maximum number of points in each section.

Section	Points
A. Needs Assessment	6 points maximum
B. Objectives	8 points maximum
C. Activities	23 points maximum
D. Resource Management	4 points maximum
E. Evaluation	5 points maximum

The ratings of the panelists will be averaged to determine the application's final quality rating.

A. Needs Assessment - 6 points

The purpose of a grant to a school board is to allow a district with severe desegregation-related needs to employ a desegregation specialist who can provide expert advice and assistance in desegregation planning and in some cases to provide inservice training also. The needs which will be addressed must be fully outlined and documented in the application. Data provided as evidence of desegregation-related need must be sufficiently thorough to convince the panelists that the need exists. If the needs are not supported by data, the project will not be funded. The number of points assigned in this section will depend on the seriousness of the needs identified and degree to which they are substantiated with data.

The following guidelines describe the types of data that may be provided and their relative value:

1. To receive points, the school district should submit data describing accomplished or anticipated changes in enrollment patterns and the reasons for these changes. (0-2 points)

2. A more comprehensive assessment could include data demonstrating the need to modify administrative structures, counseling techniques, instructional methods, and curricular materials for use in desegregated schools. If relevant to the assessed needs, data might also be presented to document differences in achievement levels of minority and nonminority children affected by desegregation. (0-2 points)

3. A still more complete assessment would include data on problems such as dropouts, expulsions, loss of white enrollment, racial tension, and lack of community support for desegregation. (0-2 points)

Regardless of the nature of its need for assistance, the applicant must present information concerning the status of any desegregation-related legal proceedings involving the school district.

B. Objectives - points

Objectives must flow directly from the needs assessment. They should include all the goals which the project will seek to achieve. If objectives do not flow from the needs assessment, the project will not be funded.

1. Points will be given for objectives that include the following elements: (0-6 points)

    a. The individuals or groups to be advised or trained
    b. The specific needs to be addressed, as identified in the needs assessment
    c. The expected results
    d. How the results will be measured

2. Points will be given for project objectives that are realistically achievable within the limits of the project period and the available resources. (0-2 points)

C. Activities - 23 points

A logical sequence must exist between the activities that make up the project and the objectives which have been developed as a result of the needs assessment. Activities which bear no relationship to the stated objectives or which do not contribute to comprehensive desegregation will not be funded.

1. The application should indicate the qualifications of the desegregation specialist to be employed. It should also describe how he will function within the district's administrative structure.

    a. Points will be given for evidence that the specialist to be hired has had extensive experience in solving problems incident to desegregation. (0-4 points)

    b. Points will be given for evidence that the desegregation specialist will have direct access to the superintendent and the school board and that he will consult with them formally on a regular basis concerning problems incident to desegregation (0-4 points)

2. Successful desegregation requires the active involvement of the community in planning as well as in implementation.

    a. Points will be given for evidence that members of the minority and nonminority communities affected by desegregation have been represented (by persons not employed by the applicant) in preparing this application. (0-3 points)

b. Points will be given for evidence that representatives of the minority and nonminority communities affected by desegregation will play an active role in identifying problem areas requiring advice or training during the program period. (0-4 points)

3. The applicant's desegregation-related needs will determine the exact activities which are conducted under this grant. At the same time, however, it is desirable that the proposed services be as comprehensive as possible, since desegregation will affect virtually all of the district's operations and procedures.

   a. Points will be given for evidence that the project assisted will be part of a comprehensive, long-range planning effort conducted by the applicant. (0-5 points)

   b. Points will be given according to the range of activities which are included in the application. Such activities should include one or more of those listed in Part III above. (0-3 points)

D. Resource Management - 4 points

1. Points will be given for evidence that project costs are reasonable in relation to expected outcomes. It must be clear exactly what outcomes will be expected from specific project costs. (0-2 points)

2. Points will be given for a description of how this project will be integrated with existing school programs and resources so that they are mutually supportive. (0-2 points)

E. Evaluation - 5 points

The evaluation design must enable the school board to measure whether or not program objectives have been achieved.

1. Points will be given for evidence that evaluation will be a constant and ongoing part of the project and that evaluation results will be continually used to modify the project. (0-3 points)

2. Points will be given for a description of the timetable to be used in gathering evaluation data. (0-2 points)

CRITERIA FOR TRAINING INSTITUTES

Quality Criteria

Section	Points
A. Needs Assessment	6 points maximum
B. Objectives	8 points maximum
C. Activities	23 points maximum
D. Resource Management	4 points maximum
E. Evaluation	5 points maximum

The ratings of the panelists will be averaged to determine the application's final rating.

A. Needs Assessment - 6 points

The purpose of a grant to establish a desegregation training institute is to enable a college or university to conduct training activities for staff members of desegregating or desegregated school districts. The needs which a proposed institute will address must be fully outlined and documented in the application. Data provided as evidence of need must be sufficiently thorough to convince the panelists that needs exist. If the needs are not supported by data, the project will not be funded.

Data used to substantiate desegregation-related needs must include letters from desegregating or desegregated school districts outlining specific needs and requesting appropriate training services from the applicant. The number of such letters received by the applicant and the seriousness of the requests contained therein will be taken into account in determining the number of points assigned in this section. If such letters have not been submitted, the project will not be funded. (It should be noted, however, that, after its award has been made, an institute may respond to requests for desegregation training from any desegregating or desegregated school board, whether or not that school district submitted an earlier letter of request as described above.)

The number of points given in this section will depend on the seriousness of the needs identified and the degree to which they are substantiated with data.

The following guidelines describe the types of information that may be provided and their relative value:

1. At a minimum, data must be submitted indicating which desegregating or desegregated school districts have requested training services and the total number of minority and nonminority students enrolled by each of them.

2. To receive points in this section, data should be submitted which describes changes in enrollment patterns of districts requesting services, and the reasons for such changes. (0-2 points)

3. A more comprehensive assessment would include data demonstrating the need to modify administrative structures, counseling techniques, instructional methods, and curricular materials for use in desegregating or desegregated schools. If relevant to the assessed needs, data might also be presented to document differences in achievement levels of minority and nonminority students affected by desegregation. (0-2 points)

4. A still more complete assessment would include data on problems such as dropouts, expulsions, loss of white enrollment, racial tension, and lack of community support for desegregation. (0-2 points)

Information must be presented documenting the status of any desegregation-related legal proceedings involving school districts which have requested the applicant's training services.

B. Objectives - 8 points

Objectives must flow directly from the needs assessment. They should include all the goals which the project will seek to achieve. If objectives do not flow from the needs assessment, the project will not be funded.

1. Points will be given for objectives that include the following elements: (0-6 points)

2. a. The individuals or groups to be assisted
   b. The specific needs to be addressed, as identified in the needs assessment
   c. The expected results
   d. How the results will be measured

2. Points will be given for project objectives that are realistically achievable within the limits of the project period and the available resources. (0-2 points)

C. Activities - 23 points

A logical sequence must exist between the activities which make up the project and objectives which have been developed as a result of the needs assessment. Such a relationship should be apparent in each of the activities without exception. Activities which bear no relationship to the program objectives will not be funded.

1. The project design should demonstrate several specific characteristics, as outlined below.

a. The effectiveness of institute training is partially dependent on the context in which it is viewed by the participating school district.

Points will be given for evidence that participating school districts will include in the institute persons with the authority to effect substantive changes in school policies and procedures. Maximum credit will be given for evidence that a substantial proportion of the institute participants will be school board members, superintendents, assistant superintendents, and principals. (0-3 points)

b. Whether of not institute training changes the way in which school people deal with children, parents, and each other is totally dependent on what happens after the institute participants leave the institute sessions.

Points will be given for evidence that the institute staff will work with institute participants on a regular basis after the formal part of the training is completed. Staff members should have the opportunity to observe teachers in the classroom and provide guidance in applying the skills and concepts learned previously. They should also have the opportunity to work with administrators, counselors, and other institute participants in the same way. At a minimum, applications must include a timetable for follow-up activities. Further relevant data will merit additional points. (0-4 points)

c. Since it would be impossible for everyone employed in a given school district to participate in a training institute, the staff members who do participate should be able to act as trainers when they return to their schools.

Points will be given for evidence that the proposed institute will present specific training techniques which participants will be able to use in training their colleagues to deal more effectively with desegregation-related problems. (0-4 points)

d. One of the goals of institute training is to assist participants in developing specific strategies for use in handling desegregation problems. The most effective way to achieve this goal is not through lectures and general discussions but through task-oriented workshops.

Points will be given for the extent to which institute activities are designed to help participants develop specific strategies for dealing with specific desegregation problems. (0-4 points)

2. The application should indicate the qualifications of the applicant in the area of desegregation assistance and training.

Appendix B:

ESA and Title IV Forms

a. Points will be given for evidence that the applicant employs or will employ persons with substantial experience in the area of desegregation training. (0-4 points)

b. Points will be given for the extent to which the project staff reflects the racial or ethnic composition of the population to be served. (0-4 points)

D. Resource Management - 4 points

Points will be given for evidence that project costs are reasonable in relation to expected outcomes. It must be clear exactly what outcomes will be expected from specific project costs. (0-4 points)

E. Evaluation - 5 points

The evaluation design must provide a format in which applicants will be able to measure whether or not project objectives have been achieved.

1. Points will be given for evidence that evaluation will be a constant and ongoing part of the project and that evaluation results will be continually used to modify training techniques. (0-3 points)
2. Points will be given for a description of the timetable to be used in gathering evaluation data. (0-2 points)

ESA and Title IV Forms

1.	Application Master Control Log (ESA and Title IV)	OE-135
2.	Format for Acknowledgement Letter (ESA and Title IV)	
3.	Weekly Application Receipt Report (ESA and Title IV)	OE-237-1
4.	Transmittal of Application for HEW Regional Director's Review (ESA and Title IV)	OE-247-1
5.	Application Check Sheets:	
	a. LEA	OE-136-7
	b. Nonprofit Groups	OE-136-6
	c. Title IV	OE-136-5
6.	Memorandum of Conversation for Application Case File (ESA and Title IV)	OE-236-3
7.	OCR Verification of Applicant's Plan Status (ESA only)	OE-138
8.	OCR Report on Applicant's Compliance Status (Title IV and NPO only)	OE-273-1
9.	Transmittal Form for State Educational Agency Comment (ESA only)	OE-235
10.	Worksheet for Computing Statistical Data Rating Scores (ESA only)	OE-246-2
11.	Application Composite Score Forms:	
	a. ESA	OE-140-4
	b. Title IV	OE-140-5
12.	Preliminary Review of Budget (ESA and Title IV)	OE-316
13.	Educational Quality Rating Form (ESA and Title IV)	OE-143-5
14.	Panel Review Summary (Title IV and ESA)	OE-241-4
15.	Recommendation for Deletion of Project Component (ESA only)	OE-142
16.	ESA Pre-Grant Site Review Report (ESA only)	OE-242-2
17.	Administrative Review of Budget (ESA and Title IV)	OE-144-5
18.	Application Case File Check Sheet (ESA and Title IV)	OE-311
19.	Application Abstract:	
	a. ESA only	OE-243-4
	b. Title IV	OE-243-5
20.	Application Rating Summary (ESA and Title IV)	OE-139-5
21.	Application Transmittal (ESA and Title IV)	OE-318
22.	Recommendation Memo to OE Washington (ESA-Bil.)	OE-239-1
23.	Transmittal of Proposed Funding Decisions for HEW-Regional Director's Review (ESA and Title IV)	OE-319
24.	Final Decision Memo (ESA and Title IV)	OE-320
25.	Application Budget Breakdown by Special Categories (ESA only)	OE-240-1

26.	Regional Monthly Activities Log (ESA and Title IV)	OE-306
27.	Financial Status Report (ESA and Title IV)	HEW-601T
28.	Quarterly Program Progress Report (ESA and Title IV)	OE-257
29.	Action Memo Concerning Grantee's Request for Budget Revision (ESA and Title IV)	OE-277
30.	Site Review Plan (ESA and Title IV)	OE-278
31.	Site Review of Program Operation:	
	a. School Districts	OE-280
	b. Nonprofit Organization	OE-286
	c. Title IV	OE-312
32.	Survey of District-Wide Advisory Committee Participation in ESAA Grants (ESA)	OE-285
33.	District-Wide Advisory Review Report (ESA only)	OE-281
34.	Survey of Student Advisory Committee Participation in ESAA Grant (ESA only)	OE-287
35.	Student Advisory Committee Review Report (ESA only)	OE-282
36.	Site Review Statistical Report (ESA only)	OE-279
37.	Quarterly Regional Monitoring Summary Report (ESA and Title IV)	OE-283
38.	Notification of Non-Compliance with Regulations and Requirements of Grant/Contract (Title IV and ESA)	OE-314

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

REGIONAL COMMISSIONER OF EDUCATION

DATE:

PR#

NAME AND ADDRESS OF
SUPERINTENDENT OR
AUTHORIZED OFFICIAL OR
AURHORIZED REPRESENTATIVE:

TITLE OF PROPOSAL/PROJECT

YOUR EMERGENCY SCHOOL AID ACT (ESAA)/TITLE IV CRA APPLICATION WAS RECEIVED BY THE OFFICE OF EDUCATION ON ________________.
DATE

THE FOLLOWING NUMBER HAS BEEN ASSIGNED TO YOUR APPLICATION, PLEASE USE IT IN ANY FUTURE CORRESPONDENCE:

PR#

APPLICATION MASTER CONTROL LOG

																	TYPE OF APPLICATION ESA BASIC LEA GRANT BILINGUAL GRANT PILOT PROJECT GRANT NONPROFIT GROUP GRANT								TYPE OF APPLICATION TITLE IX GRANTS TO SCHOOL BOARD TRAINING INSTITUTES GENERAL ASSISTANCE CENTER SEA GRANT									
DATE OF ENTRY ON LOG	NAME AND LOCATION OF APPLICANT	DATE APPLICATION RECEIVED	FUNDS		TO ESA PROGRAM MANAGER		TO REGIONAL DIRECTOR		TO OFFICE FOR CIVIL RIGHTS				TO CONTRACTING OFFICER		TO SEA		TO REVIEW PANEL		TO ESA PROGRAM MANAGER		TO DIRECTOR OF SCHOOL SYSTEM		[illegible] and Bi-lingual ONLY [illegible]		TO REGIONAL COMMISSIONER		TO REGIONAL DIRECTOR		TO REGIONAL COMMISSIONER		TO ESA PROGRAM MANAGER		TO CONTRACTING OFFICER	
									PLAN STATUS CHECK		COMPLIANCE STATUS REPORT																							
			REQUESTED	AWARDED	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN	DATE OUT	DATE IN

OE FORM 120-3, 10/73

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

TRANSMITTAL OF APPLICATION FOR HEW REGIONAL DIRECTOR'S REVIEW

ESA

TITLE IV

DATE FORWARDED FROM REGIONAL COMMISSIONER'S OFFICE ____________________

NAME OF APPLICANT	ADDRESS *(number, street, city, State and ZIP code)*

The attached application is being forwarded to you for your information and review.

Return one (1) copy of the form with information below completed and comments attached, if any, to my office

by ____________________.

Your cooperation in the prompt execution of this request execution of this request will be appreciated.

Sincerely,

Regional Commissioner of Education

DATE RECEIVED FROM OE REGIONAL OFFICE	☐ COMMENTS ATTACHED	☐ NO COMMENT
SIGNATURE OF REGIONAL DIRECTOR		DATE RETURNED TO OE REGIONAL OFFICE

OE FORM 247-1, 11 72

WEEKLY APPLICATION RECEIPT REPORT

☐ ESA

☐ TITLE IV *(CRA)*

DATE OF TRANSMITTAL

REGION

STATE

DATE OF RECEIPT	PR NUMBER	NAME AND LOCATION OF APPLICANT	AMOUNT REQUESTED	TYPE OF APPLICATION

OE FORM 237-1, 11/73

COMPLETED	ITEM	MISSING	DATE RECEIVED
	9. **Signed statement of Assurances** *(Continued)* *(a)* **Attachments:** *(5)* evidence of public notice of public hearing ***(Assurance 11)***		
	(6) copy of minutes of public hearing *(Assurance 11)*		
	(7) faculty and student enrollment data for participating nonpublic schools *(Assurance 15)*		
	(8) name of person in SEA to whom the application was submitted and the date submitted *(Assurance 20)*		
	(9) list of district transactions with nonpublic schools *(Assurance 22)*		
	(10) data on faculty for academic year preceding year of implementation plan *(Assurance 23)*		
	(11) data on faculty as of the date of the application *(Assurance 23)*		
	(12) number of children in all-minority or all nonminority classes *(Assurance 24)*		
	(13) educational justification for assignment of children as described in (12) above *(Assurance 24)*		
	(14) number of students in special classes for children with learning disabilities *(Assurance 25)*		
	(15) non-English dominant student enrollment in the first grade *(Assurance 25)*		
	(16) average standardized reading achievement scores for third and sixth grades *(if number children listed in (15), above, is greater than 100 or 5%.)*		

CERTIFICATION OF APPLICATION COMPLETENESS

TYPE OR PRINT NAME OF PROGRAM OFFICER OR PROGRAM ASSISTANT	SIGNATURE OF PROGRAM OFFICER OR PROGRAM ASSISTANT	DATE

OE FORM 136-7, 11/73

EMERGENCY SCHOOL AID ACT

APPLICATION CHECK SHEET
LOCAL EDUCATIONAL AGENCY

TYPE OF APPLICATION

☐ BASIC

☐ PILOT

☐ BILINGUAL

PROJECT NUMBER

DATE ENTERED REGIONAL CONTROL UNIT

NOTE. All parts to be completed by Program Officer.

NAME OF LOCAL EDUCATIONAL AGENCY

DATE

COMPLETED	ITEM	MISSING	DATE RECEIVED
	1. Evidence of plan for desegregation or for elimination, reduction or prevention of minority group isolation: *(a)* court order		
	(b) desegregation plan *(OCR)*		
	(c) voluntary desegregation plan		
	2. Pupil enrollment data *(a)* pupil enrollment table for base school year		
	(b) pupil enrollment table for project school year		
	3. Application information with signature of superintendent or representative		
	4. Current school enrollment data		
	5. Minority group isolation information		
	6. Project Description *(a)* number of participants data: *(1)* public schools		
	(2) nonprofit schools		
	(b) description of parent, student and community involvement in development of project		
	(c) description of composition of Advisory Committee		
	(d) evidence of publication of Advisory Committee information		
	(e) description of Advisory Committee's involvement in project implementation		
	(f) non-English dominant student enrollment data *(Bilingual projects only)*		
	(g) project description by need components		
	(h) schedule of implementation plan		
	7. Budget Outline *(a)* breakdown of proposed budget *(attached)*		
	8. Certification of Accounting System with signature		
	9. Signed statement of Assurances		
	(a) Attachments *(1)* funds from non-Federal sources *(Assurance 2)*		
	(2) coordination with other related Federal programs statement *(Assurance 4)*		
	(3) total local revenues, tax rate *(Assurance 6)*		
	(4) comments of the Advisory Committee *(Assurance 10)*		

OE FORM 136-7, 11-73

EMERGENCY SCHOOL AID ACT **APPLICATION CHECK SHEET** **NONPROFIT GROUPS**	PROJECT NUMBER DATE ENTERED REGIONAL CONTROL UNIT

NOTE: All parts to be completed by Program Officer.

NAME OF NONPROFIT GROUP	DATE

COMPLETED	ITEM	MISSING	DATE RECEIVED
	1. Application Information with Signature of Authorized Representative		
	2. Review by LEA with Signature of Representative		
	(a) LEA comments *(Attached)*		
	(b) Copy of LEAs plan which this application supports		
	3. Advisory Committee Information		
	(a) Description of Composition of Advisory Committee *(Attached)*		
	4. Project Description		
	(a) Project description by need *(Attached)*		
	(b) Schedule of implementation plan		
	(c) Description of Administrative policies to be used in implementing project *(Attached)*		
	5. Budget Itemization		
	(a) Breakdown of proposed budget *(Attached)*		
	6. Certification of Accounting System with Signature		
	7. Signed Statement of Assurances		
	(a) List of Advisory Committee Members		
	(b) Evidence of publication of names of Advisory Committee members and purpose of such committee and date of such publication		
	(c) Comments of Advisory Committee concerning application		
	(d) Copy of charter, by-laws, and other legal documents indicating nature and purpose of applicant, including evidence of nonprofit status		
	8. Signed HEW-441		

CERTIFICATION OF APPLICATION COMPLETENESS

TYPE OR PRINT NAME OF PROGRAM OFFICER	SIGNATURE OF PROGRAM OFFICER	DATE

OE FORM 136-6, 11/73

TITLE IV *(CRA)* **APPLICATION CHECK SHEET**	PROJECT NUMBER
	DATE ENTERED REGIONAL CONTROL UNIT

TYPE OF APPLICATION

☐ GRANT TO SCHOOL BOARD ☐ SEA GRANT ☐ GENERAL ASSISTANCE CENTER ☐ TRAINING INSTITUTE

NAME OF APPLICANT

RECEIVED WITH APPLICATION	ITEM	MISSING	DATE RECEIVED
	1. SIGNATURE OF AUTHORIZED REPRESENTATIVE		
	2. BUDGET OUTLINE BY OBJECT CLASS CATEGORIES		
	3. DETAILED LISTING OF PERSONNEL AND EQUIPMENT COSTS (AND OTHER COSTS EXCEEDING $1000		
	4. DETAILED PROGRAM NARRATIVE		
	5. BIOGRAPHICAL SKETCH OF PROGRAM DIRECTOR		
	6. NAMES AND RELEVANT EXPERIENCE OF OTHER KEY PERSONNEL		
	7. LIST OF MILESTONES TO BE ACHIEVED BY PROPOSED PROJECT		
	8. ENROLLMENT OF DISTRICT OR DISTRICTS PARTICIPATING IN PROJECT		
	9. SIGNATURE ON STATEMENT OF ASSURANCES		
	10. COMPLETED AND SIGNED CERTIFICATION OF ACCOUNTING SYSTEM		

APPLICATION CHECKED FOR COMPLETENESS BY

TYPE OR PRINT NAME OF PROGRAM OFFICER OR PROGRAM ASSISTANT	SIGNATURE OF PROGRAM OFFICER OR PROGRAM ASSISTANT	DATE

OE FORM 136-5 (11/73)

MEMORANDUM OF CONVERSATION FOR APPLICATION CASE FILE

ESA

TITLE IV *(CRA)*

PROJECT NUMBER

TYPE OF APPLICATION/PROJECT

USE ADDITIONAL SHEETS IF NECESSARY

NAME OF APPLICANT OR GRANTEE

STATE

CALL INITIATED BY:	**CALL MADE TO:**
NAME	NAME
POSITION	POSITION
	DATE — TIME

REASON FOR CALL

COMMENTS BY APPLICANTS GRANTEES OTHER

COMMENTS BY PROGRAM OFFICER

OTHER PERSONS INVOLVED IN DISCUSSION COMMENTS

SUMMARY OF PHONE CONVERSATION AND OR RESOLUTIONS

OE FORM 236-3, 11 73

EMERGENCY SCHOOL AID ACT **OCR VERIFICATION OF APPLICANT'S PLAN STATUS**	DATE	PROJECT NUMBER

NAME OF APPLICANT	COMPLETE ADDRESS *(include ZIP code)*

TYPE OF APPLICATION

☐ BASIC LEA GRANT ☐ BILINGUAL GRANT ☐ PILOT PROJECT GRANT ☐ NONPROFIT GROUP GRANT

I. It has been determined that the above local educational agency may be considered for assistance under section 706(a)(1) of Public Law 92-318 - Emergency School Aid Act (ESAA) because it:

(A) is implementing a plan which -

☐ has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools, or

☐ has been approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; OR

(B) without having been required to do so -

☐ has adopted and is implementing, or

☐ will, if assistance is made available to it under Title VII, Public Law 92-318, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; OR

(C)

☐ has adopted and is implementing, or

☐ will adopt and implement, if assistance is made available under Title VII, Public Law 92-318,

a plan -

☐ 1. to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency; or

☐ 2. to reduce the total number of minority group children who are in minority group isolated schools of such agency; or

☐ 3. to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this Title) in any school in such district in which school at least 20 percent but not more than 50 percent, of the enrollment consists of such children; OR

(D) without having been required to do so -

☐ has adopted and is implementing; or

☐ will adopt and implement, if assistance is made available to it under Title VII, Public Law 92-318, a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates.

II. If the application for ESAA assistance of the above-named district is based on a plan which such district will adopt, attach validation of district's compliance with 45 CFR § 185.11(c).

III. It has been determined that above-named district should not be considered for funding for the following reason(s) *(continue on reverse, if necessary)*

TYPE OR PRINT NAME OF REGIONAL EDUCATION BRANCH CHIEF (OCR)	SIGNATURE	DATE

OE FORM 138, 11/72

BUREAU OF EQUAL EDUCATIONAL OPPORTUNITY

OCR REPORT ON APPLICANT'S COMPLIANCE STATUS

REGION

DATE FORWARDED FROM OE

PROJECT NUMBER

NAME AND ADDRESS OF APPLICANT

TYPE OF APPLICATION ESA NONPROFIT ORGANIZATION

TITLE IV

GRANT TO SCHOOL BOARD SEA GRANT GENERAL ASSISTANCE CENTER TRAINING INSTITUTE

THE ABOVE-NAMED APPLICANT

IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

IS **NOT** IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
(If the report is negative, give detailed reason(s) in the space below)

TYPE OR PRINT NAME OF REGIONAL EDUCATION BRANCH CHIEF (OCR)	SIGNATURE	DATE

OE FORM 273-1, 11/73

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION

TRANSMITTAL FORM FOR STATE EDUCATIONAL AGENCY COMMENT

FORM APPROVED, O.M.B. NO. 51-R1002

Memorandum to the Chief State School Officer of ______________________________ *(State)*

DATE FORWARDED FROM REGIONAL OFFICE ____________

PROJECT NO. ____________

NAME OF APPLICANT	ADDRESS *(Number, street, city, State and ZIP code)*

The attached application is being forwarded to you in accordance with Section 710(a)(14) of the Emergency School Act, Title VII *(P.L. 92-318)*. This section requires that State educational agencies be given an opportunity to submit comments on Emergency School Aid applications to the Assistant Secretary.

It is respectfully requested that your comments, if any, concerning the attached application be returned to this office no later than ten *(10)* days after receipt of this form and attachment. Receipt of your comments within this time period is necessary in order for them to be considered during the application review process. Complete the information below and attach comments, if any, to the Form. Return one *(1)* copy of this form to my office.

Your cooperation in the prompt execution of this request will be appreciated.

Sincerely,

Regional Commissioner of Education

EMERGENCY SCHOOL AID ACT

DATE RECEIVED FROM REGIONAL OFFICE	☐ COMMENT ATTACHED	☐ NO COMMENT
SIGNATURE OF AUTHORIZED OFFICIAL	NAME OF STATE EDUCATIONAL AGENCY	DATE FORWARDED TO REGIONAL OFFICE

OE FORM 235-1, 11/73

EMERGENCY SCHOOL AID

WORKSHEET FOR COMPUTING STATISTICAL DATA RATING SCORES FOR ESA APPLICATIONS

TYPE OF APPLICATION

LEA GRANT   NONPROFIT ORGANIZATION GRANT   PILOT PROJECT GRANT
BILINGUAL GRANT

☐ 50% MINORITY STUDENTS PARTICIPATING
☐ 50% MINORITY STUDENT POPULATION
☐ 15,000 MINORITY STUDENTS

NAME OF APPLICANT

STATE

ITEM 1 NUMBER OF MINORITY IN DISTRICT ____________

SCORE 1 *(From Rating Scale)*

ITEM 2 PERCENTAGE OF MINORITY [illegible]

TOTAL CURRENT MINORITY ENROLLMENT / TOTAL CURRENT ENROLLMENT = %

SCORE 2 *(From Rating Scale)*

SCHOOLS WITH THE FOLLOWING PERCENT OF MINORITY STUDENTS (1)	BASE SCHOOL YEAR 19			PROJECT SCHOOL YEAR 19		
	NUMBER MINORITY STUDENTS ENROLLED IN BASE YEAR (2)	WEIGHT	WEIGHTED NUMBER (4)	NUMBER MINORITY STUDENTS ENROLLED IN PROJECT YEAR (3)	WEIGHT	WEIGHTED NUMBER (5)
95-100%		x0.0=	0		x0.0=	0
90-94.9%		x0.1=			x0.1=	
85-89.9%		x0.2=			x0.2=	
80-84.9%		x0.3=			x0.3=	
75-79.9%		x0.4=			x0.4=	
70-74.9%		x0.5=			x0.5=	
65-69.9%		x0.6=			x0.6=	
60-64.9%		x0.7=			x0.7=	
55-59.9%		x0.8=			x0.8=	
50-54.9%		x0.9=			x0.9=	
0-49.9%		x1.0=			x1.0=	
TOTAL						

ITEM 3 COMPUTATION FOR EFFECTIVE NET REDUCTION—NUMBER OF CHILDREN	Total, Column 5	ITEM 4 COMPUTATION FOR EFFECTIVE NET REDUCTION — PERCENT OF CHILDREN	Column 5 / Column 3
	Less Total Column 4		Less Column 4 / Column 2 =
	Net Reduction — Number =		*Net Reduction — Percent* =
	Score 3. (from Rating Scale)		*Score 4. (from Rating Scale)* =

TOTAL SCORES	SCORE 1	SCORE 2	SCORE 3	SCORE 4	TOTAL

VERIFICATION OF DATA

1. ENROLLMENT DATA POSTED BY   CHECKED BY
2. CALCULATIONS PERFORMED BY   CHECKED BY
3. SCORES CONVERTED & POSTED BY   CHECKED BY

PROGRAM OFFICER STATEMENT

I have reviewed the data submitted by this applicant and find the score consistent with my knowledge of the district.

SIGNATURE

OE FORM 246-2, 11/73

EMERGENCY SCHOOL AID ACT OF EQUAL EDUCATIONAL OPPORTUNITY

ESA APPLICATION COMPOSITE SCORE

DATE

PROJECT NUMBER

NAME OF SCHOOL DISTRICT	NAME OF APPLICANT	CITY AND STATE

TYPE OF APPLICATION

☐ BASIC LEA GRANT ☐ BILINGUAL GRANT ☐ PILOT PROJECT GRANT ☐ NONPROFIT GROUP GRANT

PART I - STATISTICAL RATING

(To be completed by Program Officer using OE Form 246-2)

ITEM	NUMBER OR PERCENT	NUMBER OF POINTS
1. NUMBER OF MINORITY STUDENTS		
OR NUMBER OF STUDENTS IN DISTRICT WITH DOMINANT LANGUAGE OTHER THAN ENGLISH		
2. PERCENTAGE OF MINORITY STUDENTS		
OR PERCENTAGE OF STUDENTS IN DISTRICT WITH DOMINANT LANGUAGE OTHER THAN ENGLISH		
3. EFFECTIVE NET REDUCTION OF RACIAL ISOLATION: NUMBER OF CHILDREN		
4. EFFECTIVE NET REDUCTION OF RACIAL ISOLATION: PERCENTAGE OF CHILDREN		
TOTAL	▨	

PART II - PANEL QUALITY RATING SCORE *(From OE Form 241-4)*	
PART III - COMPOSITE APPLICATION SCORE *(Statistical Score plus Quality Score)*	

SIGNATURE OF PROGRAM OFFICER	DATE
SIGNATURE OF PROGRAM MANAGER	DATE

OE FORM 140-4, 11/73

PRELIMINARY REVIEW OF BUDGET

PROJECT NUMBER

AMOUNT REQUESTED

$

TYPE OF APPLICATION ESA BASIC LEA GRANT PILOT PROJECT GRANT BILINGUAL GRANT NONPROFIT GROUP GRANT	TYPE OF APPLICATION TITLE IV GRANTS TO SCHOOL BOARDS GRANTS TO SEA GENERAL ASSISTANCE CENTER TRAINING INSTI
NAME OF APPLICANT	ADDRESS *(Include number, street, city, State, and ZIP code)*

1. LIST THE ACTIVITIES, IF ANY, IN THE APPLICATION WHICH ARE NOT INCLUDED UNDER THE AUTHORIZED ACTIVITIES IN THE APPROPRIATE SECTION OF THE REGULATIONS. DELETE THE COST OF THESE ACTIVITIES FROM THE BUDGET, WHERE POSSIBLE. **ESA ONLY**

AMOUNT DELETED

$

2. LIST THE NONALLOWABLE COSTS AS OUTLINED IN THE GRANT TERMS AND CONDITIONS, WHICH ARE INCLUDED IN THE APPLICATION, AND WHERE POSSIBLE, DELETE THE AMOUNT FROM THE BUDGET

AMOUNT DELETED

$

NAME OF PROGRAM OFFICER	SIGNATURE	DATE
NAME OF CONTRACTING OFFICER	SIGNATURE	DATE

OE FORM 316, 11 73

TITLE IV *(CRA)* **APPLICATION COMPOSITE SCORE**	DATE PROJECT NUMBER

NAME OF SCHOOL DISTRICT	NAME OF APPLICANT	CITY AND STATE

TYPE OF APPLICATION

☐ SCHOOL BOARD GRANT ☐ SEA GRANT ☐ GENERAL ASSISTANCE CENTER

PART I - STATISTICAL DATA RATING

ITEM	NUMBER OR PERCENT	NUMBER OF POINTS
1. NUMBER OF MINORITY STUDENTS		
2. PERCENTAGE OF MINORITY STUDENTS		
TOTAL	▨	

PART II - PANEL QUALITY RATING SCORE *(From OE Form 241-4)*	
PART III - COMPOSITE APPLICATION SCORE *(Statistical Score plus Quality Score)*	

SIGNATURE OF PROGRAM OFFICER	DATE
SIGNATURE OF PROGRAM MANAGER	DATE

OE FORM 140-5, 11/73

Page 1 of 7 Pages

EDUCATIONAL QUALITY RATING FORM
SUMMARY

ESA

☐ TITLE IV *(CRA)*

TOTAL NUMBER OF POINTS

TYPE OF APPLICATION

☐ BASIC LEA GRANT
☐ PILOT PROJECT GRANT
☐ BILINGUAL GRANT
☐ NONPROFIT GROUP GRANT

TYPE OF APPLICATION

☐ GRANT TO SCHOOL BOARD
☐ SEA GRANT
☐ TRAINING INSTITUTE
☐ GENERAL ASSISTANCE CENTER

NAME OF DISTRICT

CITY AND STATE

NAME OF PANEL MEMBER

DATE OF RATING

	CATEGORIES	NUMBER OF POINTS
NUMERICAL BREAKDOWN OF TOTAL NUMBER OF POINTS	NEEDS ASSESSMENT	
	OBJECTIVES	
	ACTIVITIES	
	RESOURCE MANAGEMENT	
	EVALUATION	
	REPLICABILITY *(PILOT PROJECTS ONLY)*	
	TOTAL	

COMMENTS *(If any)*

SIGNATURE OF PANEL MEMBER

DATE

OE FORM 143-5, 11/73

Page ___ of 7 Pages

EDUCATIONAL QUALITY RATING FORM

CATEGORY: NEEDS ASSESSMENT

___ ESA ___ ☐ TITLE IV (CRA)

NUMBER OF POINTS

TYPE OF APPLICATION

___ BASIC LEA GRANT ___ PILOT PROJECT GRANT

___ BILINGUAL GRANT ___ NONPROFIT GROUP GRANT

TYPE OF APPLICATION

___ SEA GRANT ___ GRANT TO SCHOOL BOARD

___ TRAINING INSTITUTE ___ GENERAL ASSISTANCE CENTER

NAME OF DISTRICT

CITY AND STATE

NAME OF PANEL MEMBER

DATE OF RATING

GIVE REASON(S) FOR RATING THIS CATEGORY AS INDICATED ABOVE

FOR NONPROFIT GROUP APPLICATIONS INDICATE THE FOLLOWING

Number of points for cooperation with local educational agency ___________

Number of points for magnitude of needs _________

SIGNATURE OF PANEL MEMBER

DATE

OE FORM 143-5, 11/73

Page 3 of 7 Pages

EDUCATIONAL QUALITY RATING FORM

CATEGORY: OBJECTIVES

ESA ☐ TITLE IV *(CRA)*

NUMBER OF POINTS

TYPE OF APPLICATION

☐ BASIC LEA GRANT ☐ PILOT PROJECT GRANT

☐ [illegible] GRANT ☐ NONPROFIT GROUP GRANT

TYPE OF APPLICATION

☐ GRANT TO SCHOOL BOARD ☐ SEA GRANT

☐ GENERAL ASSISTANCE CENTER ☐ TRAINING INSTITUTE

SCHOOL DISTRICT

CITY AND STATE

NAME OF PANEL MEMBER

DATE OF RATING

GIVE REASONS FOR RATING THIS CATEGORY AS INDICATED ABOVE

SIGNATURE OF PANEL MEMBER

DATE

OE FORM 143-5, 11/73

Page 4 of 7 Pages

EDUCATIONAL QUALITY RATING FORM
CATEGORY: ACTIVITIES

ESA

☐ TITLE IV (CRA)

NUMBER OF POINTS

TYPE OF APPLICATION

BASIC LEA GRANT ☐ PILOT PROJECT GRANT

BILINGUAL GRANT ☐ NONPROFIT GROUP GRANT

TYPE OF APPLICATION

☐ GRANT TO SCHOOL BOARD ☐ SEA GRANT

☐ TRAINING INSTITUTE GENERAL ASSISTANCE CENTER

NAME OF DISTRICT

CITY AND STATE

NAME OF PANEL MEMBER

DATE OF RATING

GIVE REASON(S) FOR RATING THIS CATEGORY AS INDICATED ABOVE

SIGNATURE OF PANEL MEMBER

DATE

Page 5 of 7 Pages

NUMBER OF POINTS

EDUCATIONAL QUALITY RATING FORM
CATEGORY: RESOURCE MANAGEMENT

ESA

☐ TITLE IV *(CRA)*

TYPE OF APPLICATION

☐ BASIC LEA GRANT
☐ PILOT PROJECT GRANT
☐ BILINGUAL GRANT
☐ NONPROFIT GROUP GRANT

TYPE OF APPLICATION

☐ GRANT TO SCHOOL BOARD
☐ SEA GRANT
☐ GENERAL ASSISTANCE CENTER
☐ TRAINING INSTITUTE

NAME OF DISTRICT

CITY AND STATE

NAME OF PANEL MEMBER

DATE OF RATING

GIVE REASON(S) FOR RATING THIS CATEGORY AS INDICATED ABOVE

SIGNATURE OF PANEL MEMBER

DATE

OE FORM 143-5, 11/73

EDUCATIONAL QUALITY RATING FORM
CATEGORY: EVALUATION

☐ TITLE IV *(CRA)*

Page 6 of 7 Pages

NUMBER OF POINTS

[illegible] APPLICATION

[illegible] GRANT ☐ PILOT PROJECT GRANT

[illegible] GRANT ☐ NONPROFIT GROUP GRANT

TYPE OF APPLICATION

☐ GRANT TO SCHOOL BOARD ☐ SEA GRANT

☐ TRAINING INSTITUTE ☐ GENERAL ASSISTANCE CENTER

[illegible]

CITY AND STATE

NAME OF PANEL MEMBER

DATE OF RATING

GIVE REASON(S) FOR RATING THIS CATEGORY AS INDICATED ABOVE

SIGNATURE OF PANEL MEMBER

DATE

OE FORM 143-5, [illegible]

EDUCATIONAL QUALITY RATING FORM

CATEGORY: REPLICABILITY

(ESA Pilot Projects Only)

Page 7 of 7 Pages

NUMBER OF POINTS	
NAME OF DISTRICT	CITY AND STATE
NAME OF PANEL MEMBER	DATE OF RATING

GIVE REASON(S) FOR RATING THIS CATEGORY AS INDICATED ABOVE

SIGNATURE OF PANEL MEMBER	DATE

OE FORM 143-5, 11/73

STATE

PROJECT NUMBER

DATE OF REVIEW

EDUCATIONAL QUALITY RATING

PANEL REVIEW SUMMARY (For U.S.O.E. use only)

TITLE IV ESA

TYPE OF APPLICATION
GRANT TO SCHOOL BOARD SEA GRANT
GENERAL ASSISTANCE CENTER TRAINING INSTITUTE

TYPE OF APPLICATION
BASIC LEA GRANT BILINGUAL GRANT
PILOT PROJECT NONPROFIT GROUP GRANT

NAME OF APPLICANT

NAME OF PANELIST	NEEDS ASSESSMENT	OBJECTIVES	ACTIVITIES	RESOURCE MANAGEMENT	EVALUATION	REPLICABILITY (Pilot only)	TOTAL SCORE
1.							
2.							
3.							
4.							
TOTAL							

COMPUTATION OF EDUCATIONAL QUALITY RATING SCORE

Total __________ divided by 4 equals __________ educational quality rating score.

PRINT OR TYPE NAME OF PROGRAM OFFICER

SIGNATURE OF PROGRAM OFFICER

DATE

OE FORM 241-4, 11/73

EMERGENCY SCHOOL AID ACT

RECOMMENDATION FOR DELETION OF PROJECT COMPONENT(S)

DATE

TYPE OF APPLICATION

☐ BASIC LEA GRANT ☐ PILOT PROJECT GRANT

☐ BILINGUAL GRANT ☐ NONPROFIT GROUP GRANT

PROJECT NUMBER

NAME OF APPLICANT

ADDRESS (number, street, city, State and ZIP code)

GIVE REASON FOR PANEL'S DECISION FOR EACH COMPONENT DELETED AND INDICATE WHAT EFFECT DELETION(S) WILL HAVE ON THE APPLICANT'S REACHING THE STATED OBJECTIVES

SIGNATURE OF PANEL MEMBER	DATE	SIGNATURE OF PANEL MEMBER	DATE
SIGNATURE OF PANEL MEMBER	DATE	SIGNATURE OF PANEL MEMBER	DATE

OE FORM 142, 11-72

ESA PRE-GRANT

SITE REVIEW REPORT

(On separate sheet(s), respond to the following items. Identify your response by item number)

I - PROGRAM SERVICES IDENTIFICATION

Item 1. Identify all sources of federally funded programs targeted for the elementary and secondary levels presently operating in the applicant district(s). Include level of funding for each source.

Item 2. From the above list, identify the minority isolated schools that are receiving federal funds and the sources of the federally funded programs operating in them.

Item 3. Identify the number and percent of minority students being served by each of the programs listed under item (2) above.

Item 4. Identify all programs and projects in operation that are designed to overcome problems identified in the Needs Assessment portion of the application and determine the impact of these programs on reducing problem intensity. Impact determinations are to be based on specific **official** program information as recorded in program files and/or contained on evaluation and descriptive reports. *(Judgmental information alone is insufficient).* For example, specific program information should include

a. Established measurable objectives and desired outcomes. *(perform comparison)*

b. Recorded indices of behavorial change resulting from program participation such as: decrease in absenteeism; decrease in dropout rate, etc.

Item 5. Identify all existing program objectives that are similar to the objectives stated in the application.

Item 6. Identify total amount of funds that have been targeted to the minority isolated schools in the district.

Item 7. Identify all State and Federal resources targeted for the same student population to be served by this grant.

Item 8. Determine how the applicant will corrdinate State, Federal and local resources in addressing problems identified in NEEDS ASSESSMENT.

II - MANAGEMENT CAPABILITY QUESTIONNAIRE

Item 1. Does the applicant have the professional capabilities to manage this grant in terms of:

a. Project staff experience and background?

b. Prospective LEA grant administrators?

Item 2. Does the applicant have the physical capability to implement this grant adequately?

Item 3. How would you assess the applicant's management capability to implement this project successfully?

a. What has been the applicant's past performance in administering other federally funded programs? In managing grants of this size?

b. Has the applicant been able to meet deadline dates of fiscal and evaluation reports.

c. Is the applicant knowledgeable of the basic terms and conditions of grants/contracts awarded under ESAA?

d. What controls have been established to prevent overcommitment of funds for this project?

e. How will the applicant assure the funding agency that monies provided under this authorization will reach the people to be served by the project?

f. What person or persons will be responsible for expending monies under this program?

Item 4. Does the applicant have the capital to commence project activities prior to receiving program funds?

Item 5. Is the budget realistic in terms of line item costs, objectives and scope of work?

a. What percent of the project is earmarked for consultant services?

b. Is the consultant budget realistic in terms of the scope of work?

Item 6. What percent of this project will be subcontracted?

Item 7. Will subcontractor(s) be selected by a bidding process?

Item 8. Will controls be established by the applicant governing the performance of the subcontractor(s)?

ADMINISTRATIVE REVIEW OF BUDGET

PROJECT NUMBER

AMOUNT REQUESTED

$

PRELIMINARY RECOMMENDED ADJUSTED BUDGET

$

[illegible]

RECOMMENDED [illegible]

[illegible]

TYPE OF APPLICATION

ESA

B[illegible] EA GRANT

PILOT PROJECT GRANT

[illegible] GRANT

[illegible] GRANT

TYPE OF APPLICATION

TITLE IV

SCHOOL BOARD GRANT

SEA GRANT

TRAINING INSTITUTE

GENERAL A[illegible]

NAME OF APPLICANT

ADDRESS (Include number, [illegible] ZIP [illegible])

1. **ESA ONLY** – ARE FUNDS REQUESTED REQUIRED TO RESOLVE PROBLEMS INCIDENT TO THE REDUCTION OF RACIAL ISOLATION OR TO OVERCOMING THE ADVERSE EFFECTS OF RACIAL ISOLATION?

YES NO

TITLE IV ONLY – ARE FUNDS REQUESTED REQUIRED TO [illegible] PLANNING FOR DESEGREGATION OR TO [illegible] PROBLEMS INCIDENT TO THE DESEGREGATION OF PUBLIC SCHOOLS?

YES NO

IF "NO", IDENTIFY, EXPLAIN, AND ADJUST BUDGETS *(Program Officer only)*

TOTAL AMOUNT DELETED

$

2. TOTAL UNAUTHORIZED AND NONALLOWABLE COSTS DELETED FROM BUDGET [illegible]
Preliminary Review of Budget (Program Officer, Contracting Officer)

TOTAL AMOUNT [illegible]

$

3. LIST THE ITEMS AND AMOUNTS DELETED FROM THE BUDGET AS A RESULT OF THE PANEL REVIEW RECOMMENDATIONS. *(i.e. components or activities recommend for deletion) (Program Officer/Contracting Officer)*

TOTAL AMOUNT DELETED
$

4. ARE ANY PROPOSED COSTS EXCESSIVE? IF "YES", IDENTIFY AND ADJUST BUDGET *(Program Officer/Contracting Officer)*

☐ YES ☐ NO

TOTAL AMOUNT DELETED
$

5. ARE THERE ANY COSTS NOT COVERED ABOVE WHICH ARE NOT SPECIFICALLY RELATED TO THE REQUIREMENTS OF THE ESA PROGRAM ACTIVITY FOR WHICH SUPPORT IS REQUESTED? IF "YES", IDENTIFY AND EXPLAIN *(Program Officer Only)*

☐ YES ☐ NO

TOTAL AMOUNT DELETED
$

6. ARE THE COSTS OF THE PROGRAM COMPONENTS REASONABLE IN RELATION TO THE EXPECTED BENEFITS? IF "NO", IDENTIFY AND EXPLAIN *(Program Officer Only)* ☐ YES ☐ NO

7. REMARKS AND COMMENTS *(ESA Program Manager)*

TYPE OR PRINT NAME OF PROGRAM OFFICER	SIGNATURE OF PROGRAM OFFICER	DATE
TYPE OR PRINT NAME OF REGIONAL CONTRACTING OFFICER	SIGNATURE OR REGIONAL CONTRACTING OFFICER	DATE
CONCURRENCE OF ESA PROGRAM MANAGER	SIGNATURE OF ESA PROGRAM MANAGER	DATE

OE FORM 144-5, 11/73

APPLICATION CASE FILE CHECK SHEET

PROJECT NUMBER

FUNDING DECISION

GRANT NUMBER

TYPE OF APPLICATION **TITLE IV**
SCHOOL BOARD GRANT
SEA GRANT
GENERAL ASSISTANCE CENTER
TRAINING INSTITUTE

TYPE OF APPLICATION **ESA**
BASIC LEA GRANT
[✓ BILINGUAL GRANT]
PILOT PROGRAM GRANT
NONPROFIT GRANT

NAME AND LOCATION OF APPLICANT

PART I - *(To be completed prior to Program Manager Review)*

ITEM	RECEIVED IN CASE FILE YES	RECEIVED IN CASE FILE NO
1. Application with all Required Forms Attachments and Signatures		
2. Application Check Sheet-Certification of Application Completeness		
3. Signed OCR Verification of Applicant's Plan Status *(ESA only)*		
4. OCR Compliance Clearance a. in Compliance		
b. not in Compliance		
c. OCR Compliance Report		
5. SEA Transmittal Form *(ESA only)* NO COMMENTS COMMENTS ATTACHED *(Verify attachments)*		
6. Regional Director's Transmittal Form NO COMMENTS COMMENTS ATTACHED		
7. Application Composite Score Form *(completed) (Signed Statistical Worksheet Attached - ESA only)*		
8. Preliminary Review of Budget Form *(completed)*		
9. Panel Quality Rating Forms *(completed)*		
10. Panel Review Summary Sheet *(completed)*		
11. Administrative Review of Budget Form *(completed)*		
12. Pre-Grant Site Review Report *(if appropriate) (ESA only)*		

APPLICATION CASE FILE CHECKED FOR COMPLETENESS BY	NAME OF PROGRAM OFFICER OR PROGRAM ASSISTANT	DATE

OE FORM 311, 11/73

PART II – POST-REVIEW CHECK	INCLUDED IN CASE FILE	
	YES	NO
13. Rating Summary Chart		
14. Application Transmittal, Signed by Director of School Systems Comments Attached, if any		
15. Transmittal of Proposed Funding Decisions to Regional Director		
16. Final Decision Memorandum		
17. Grant Award Document with Negotiated Budget Attached		
18. Application Abstract		
19. Student Advisory Committee Data *(ESA only)*		

	SITE VISIT REPORT	FINANCIAL	PROGRAM	SITE VISIT REPORT	FINANCIAL	PROGRAM
20. Monitoring Reports: a. First Quarter						
b. Second Quarter						
c. Third Quarter	▨			▨		
d. Fourth Quarter	▨			▨		
e. Final Report	▨			▨		

OE FORM 311, 11/73

PART B - TO BE COMPLETED BY PROGRAM MANAGER

PREVIOUS GRANTS

☐ ESAP I ☐ ESAP II ☐ TITLE IV ☐ ESAA I

RECOMMENDED BUDGET CHANGES *(Use other side if necessary)*

ITEM	REASON	AMOUNT OF CHANGES
		$
	TOTAL	$
	AMOUNT RECOMMENDED BY PROGRAM MANAGER	$

PRE-GRANT SITE REVIEW

1. WAS A PRE-GRANT SITE REVIEW CONDUCTED?

☐ YES ☐ NO

2. FOR WHAT REASON WAS IT CONDUCTED?

☐ IN EXCESS OF $500,000 ☐ $200,000-$500,000

☐ NEED FOR ADDITIONAL INFORMATION ☐ DISPARITIES ON APPLICATION DATA

3. LIST ANY IRREGULARITIES, IF ANY

RECOMMENDED ACTION FOR IRREGULARITIES

☐ PROGRAM HOLD ☐ LEGAL HOLD ☐ FISCAL HOLD

PART C - TO BE COMPLETED BY REGIONAL COMMISSIONER

(Further Budget Changes, if any)

ITEM	REASON	AMOUNT OF CHANGES
	AMOUNT RECOMMENDED BY REGIONAL COMMISSIONER	$

SIGNATURE OF PROGRAM OFFICER	DATE
SIGNATURE OF PROGRAM MANAGER	DATE
SIGNATURE OF REGIONAL COMMISSIONER	DATE

ESA APPLICATION ABSTRACT

FUNDS REQUESTED
$

FUNDS AWARDED
$

TYPE OF APPLICATION
☐ BASIC LEA GRANT ☐ PILOT PROJECT GRANT ☐ BILINGUAL GRANT ☐ NONPROFIT GROUP GRANT

NAME OF APPLICANT

ADDRESS *(Include number, street, city, State and ZIP code)*

PART A - TO BE COMPLETED BY PROGRAM OFFICER

MAJOR OBJECTIVES *(Mark all that apply)*
☐ ACHIEVEMENT IMPROVEMENT *(Reading and Math Skills)*
☐ ELIMINATION OF MINORITY GROUP ISOLATION
☐ REDUCTION OF RACIAL TENSION
☐ OTHER *(Specify)*

BRIEFLY SUMMARIZE EACH COMPONENT, IN RANK ORDER

COMPONENT #1:

COMPONENT #2:

COMPONENT #3:

ACTIVITIES *(Boxes should be keyed with appropriate component number(s))*

LEA
- ☐ SPECIAL REMEDIAL SERVICES
- ☐ STAFF TRAINING
- ☐ GUIDANCE AND COUNSELING SERVICES
- ☐ CURRICULUM DEVELOPMENT
- ☐ CAREER EDUCATION PROGRAMS
- ☐ INNOVATIVE INTERRACIAL PROGRAMS
- ☐ COMMUNITY ACTIVITIES
- ☐ ADMINISTRATIVE AND AUXILIARY SERVICES
- ☐ PLANNING AND EVALUATION
- ☐ FACILITY REPAIR

NONPROFIT GROUP
- ☐ COMMUNITY INFORMATION PROGRAMS
- ☐ HOME-FOCUSED PROGRAMS
- ☐ CULTURAL ENRICHMENT ACTIVITIES
- ☐ INTERRACIAL SOCIAL AND RECREATIONAL PROGRAM
- ☐ INTERRACIAL EDUCATIONAL ENRICHMENT PROGRAM
- ☐ CAREER ORIENTATION PROGRAMS
- ☐ DROPOUT PREVENTION PROGRAMS
- ☐ SUPPLEMENTAL REMEDIAL SERVICES
- ☐ OTHER *(Specify)*

SPECIAL CONCERNS

BACKGROUND INFORMATION

ITEM	ORIGINAL NO.	FINAL NO.	ITEM	ORIGINAL NO.	FINAL NO.
1. Total Number of Schools in District			7. Total Number of Teaching Staff in District		
2. Number of Isolated Schools in District			8. Number of Minority Teachers in District		
3. Number of Isolated Schools Participating in Project			9. Number of Minority Teachers Involved in Project		
4. Total Student Enrollment			10. Number of Nonpublic Students Participating in Project		
5. Minority Student Enrollment			11. Number of Nonpublic Teachers Participating in Project		
6. Number of Minority Students Participating in Project					

OE FORM 243-4, 11/73

TITLE IV

APPLICATION ABSTRACT

PART A - TO BE COMPLETED BY PROGRAM OFFICER

TYPE OF APPLICATION

☐ GRANTS TO SCHOOL BOARDS ☐ GRANTS TO SEA ☐ GENERAL ASSISTANCE CENTER ☐ TRAINING INSTITUTE

NAME OF APPLICANT	ADDRESS (Include number, street, city, State and ZIP code)

FUNDS REQUESTED $	FUNDS AWARDED $	NUMBER OF YEARS OF PREVIOUS TITLE IV ASSISTANCE

MAJOR ACTIVITIES PLANNED

BACKGROUND INFORMATION

1. Student enrollment in school district *(LEA Only)* ____________
2. Minority student enrollment-school district *(LEA Only)* ________
3. Total number of schools in districts who have requested assistance *(SEA & GAC, INT)* ________________
4. Student enrollment in school districts requesting assistance *(SEA, GAC, INT)*
5. Minority student enrollment in school districts requesting assistance *(SEA, GAC, INT)* ________________
6. Length of In-service Training *(GAC, INT, LEA, where applicable)* ______________
7. Participants in In-service Training *(GAC, INT, LEA)* Check all that are applicable:
   - ☐ SCHOOL BOARD MEMBERS
   - ☐ SUPERINTENDENTS
   - ☐ PRINCIPALS
   - ☐ TEACHERS
8. LEA ONLY:
   - ☐ ADVISORY SPECIALIST PROGRAM
   - ☐ IN-SERVICE TRAINING PROGRAM

PART B - TO BE COMPLETED BY PROGRAM MANAGER

BUDGET INFORMATION

(Recommended Budget Changes, use reverse, if necessary)

ITEM	REASON	AMOUNT CHANGED
		$
	TOTAL	$
	AMOUNT RECOMMENDED BY PROGRAM MANAGER	$

OE FORM 243-5, 11/73

PART C - TO BE COMPLETED BY REGIONAL COMMISSIONER

(Enter further Budget Changes, if any)

ITEM	REASON	AMOUNT CHANGED
		$
	AMOUNT RECOMMENDED BY REGIONAL COMMISSIONER	$

SIGNATURE OF PROGRAM OFFICER	DATE
SIGNATURE OF PROGRAM MANAGER	DATE
SIGNATURE OF REGIONAL COMMISSIONER	DATE

OE FORM 243-5 11/73

APPLICATION RATING SUMMARY

TYPE OF APPLICATION: ESA — BASIC LEA GRANT — BILINGUAL GRANT — PILOT PROJECT GRANT — NONPROFIT GROUP GRANT

TYPE OF APPLICATION: TITLE IV — GRANT TO SCHOOL BOARD — GENERAL ASSISTANCE CENTER — SEA GRANT — TRAINING INSTITUTE

STATE

REGION NUMBER

FISCAL YEAR

NAME OF APPLICANT	LOCATION	STATISTICAL DATA RATING SCORES								STATISTICAL SCORE	QUALITY RATING SCORE	TOTAL SCORE	REGIONAL DIRECTOR COMMENTS	AMOUNT REQUESTED	[illegible]	COMMENTS
		NUMBER OF MINORITY STUDENTS		PERCENT OF MINORITY STUDENTS		EFFECT IN NET REDUCTION OF RACIAL ISOLATION										
		NUMBER	POINTS	PERCENT	POINTS	NUMBER OF MINORITY STUDENTS	POINTS	PERCENT OF MINORITY STUDENTS	POINTS							

OE FORM 130 5, [illegible]

APPLICATION TRANSMITTAL	DATE	FUNDS REQUESTED $
	APPLICANT'S STATE	RECOMMENDED FUNDING LEVEL $

TYPE OF APPLICATION
☐ ESA
BASIC LEA GRANT ☐ BILINGUAL GRANT
PILOT PROJECT GRANT ☐ NONPROFIT GROUP GRANT

TYPE OF APPLICATION
☐ TITLE IV (CRA)
☐ SCHOOL BOARD GRANT ☐ SEA GRANT
☐ GENERAL ASSISTANCE CENTER ☐ TRAINING INSTITU

NAME OF APPLICANT

ADDRESS (Include number, street, city, State and ZIP code)

The application from ______________________________
(Name of School District/Organization)
has been reviewed and rated in accordance with requirements set forth by the Deputy Commissioner for School Systems. Transmitted herewith is the completed application case file and supporting documents for the Director of School Systems concurrence prior to review and action by the Regional Commissioner of Education.

OE Form 247 with a copy of the application attached was forwarded to the Regional Director on ____________________.

OE Form 247 ☐ has been returned with no comments or recommendations
☐ has been returned with comments and/or recommendations
☐ has been returned with comments which required special action for resolution

ESA ONLY

OE Form 235 with a copy of the application attached was forwarded to the SEA

________ ________ ________.
(Date)

OE Form 235 ☐ has been returned
☐ has not been returned to the OE Regional Office as of this date

SIGNATURE OF ESA PROGRAM MANAGER

DATE FORWARDED TO DSS

DIRECTOR OF SCHOOL SYSTEMS

☐ I CONCUR WITH THE PROGRAM MANAGER'S RECOMMENDATION
☐ I DO NOT CONCUR, COMMENTS ATTACHED

SIGNATURE OF DIRECTOR FOR SCHOOL SYSTEMS

DATE FORWARDED TO RC

OE FORM 318, 11/73

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
EMERGENCY SCHOOL AID

RECOMMENDATION MEMORANDUM TO OE WASHINGTON

BILINGUAL-ESA

State of ____________

TITLE IV ESA

SIGNATURE OF REGIONAL COMMISSIONER	DATE

OE FORM 239-1, 11 73

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

TRANSMITTAL OF PROPOSED FUNDING DECISIONS FOR HEW REGIONAL DIRECTOR'S REVIEW

ESA **TITLE IV** (CRA)

____
(Date forwarded from Regional Commissioner's Office)

The attached Proposed Funding Decisions for Fiscal Year 1974 are being forwarded to you for your concurrence.

Return one (1) copy of the for with information below completed and comments attached, if any, to my office within the next 15 working days, or by ____________________.

Your cooperation in the prompt execution of this request will be appreciated.

Sincerely,

Regional Commissioner of Education

I CONCUR WITH THE ATTACHED PROPOSED FUNDING DECISIONS	SIGNATURE OF REGIONAL DIRECTOR

I DO NOT CONCUR

EXCEPTIONS

SIGNATURE OF REGIONAL DIRECTOR	DATE RECEIVED FROM REGIONAL COMMISSIONER	DATE RETURNED TO REGIONAL COMMISSIONER

OE FORM 319, 11 73

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

FINAL DECISION

State of ______________________

TYPE OF APPLICATION	**ESA**	TYPE OF APPLICATION	**TITLE IV** (CRA)
☐ BASIC LEA GRANT	☐ NONPROFIT GROUP GRANT	☐ SCHOOL BOARD GRANT	☐ SEA GRANT
☐ PILOT PROJECT GRANT		☐ GENERAL ASSISTANCE	☐ TRAINING INSTITUTE

SIGNATURE OF REGIONAL COMMISSIONER	DATE

OE FORM 320, (1/73)

EMERGENCY SCHOOL AID ACT

APPLICATION BUDGET BREAKDOWN BY SPECIAL CATEGORIES

FISCAL YEAR

STATE

TYPE OF APPLICATION

BASIC LEA GRANTS

PILOT PROJECTS

BILINGUAL

NONPROFIT GROUP GRANTS

NAME AND ADDRESS OF APPLICANT	AMOUNT AWARDED BY SPECIAL CATEGORY					STUDENTS INCLUDED		NO. PERSONS TO BE EMPLOYED BY PROJECT	
	BASIC INSTRUCTIONAL SERVICES	SUPPORTIVE SERVICES	OTHER	NPO ONLY ARTS AND HUMANITIES PROGRAMS	TOTAL AMOUNT AWARDED	PUBLIC	NON-PUBLIC	PRO-FESSIONAL	NON-PRO-FESSIONAL

OE FORM 240-1, 11 [illegible]

REGIONAL OFFICE ACTIVITIES LOG

REGION NO.

FISCAL YEAR

19____

MONTH	REQUIRED MAN-DAYS AVAILABLE	APPLICATION PROCESSING ([illegible])		GRANT [illegible] MAINTENANCE	[illegible] PREPARATION	REGIONAL PLANNING	INTERNAL TRAINING	[illegible] GRANT VISITS			PROGRAM AUDITS		ROUTINE MONITORING		[illegible]		[illegible]		[illegible]		[illegible] DEVELOPMENT		PROGRAM SUPPORT		REQUESTS RECEIVED FOR TECHNICAL ASSISTANCE			
		STAFF DAYS	OUTSIDE HELP DAYS					NO. VISITS	[illegible] MAN-DAYS	OUTSIDE MAN-DAYS	NO. AUDITS	MAN DAYS	REVIEWS MADE	[illegible] DAYS	NO. [illegible] MEETINGS	MAN DAYS	[illegible]	[illegible]	NO. [illegible]	MAN [illegible]	[illegible]	[illegible]	RE-[illegible]	MAN DAYS	[illegible] MANDATED	ADMINISTRATIVELY REQUIRED	PROGRAM DEVELOPMENT	PROGRAM SUPPORT
July																												
August																												
September																												
October																												
November																												
December																												
January																												
February																												
March																												
April																												
May																												
June																												
TOTAL																												

OE FORM [illegible], 10/[illegible]

FORM APPROVED O.M.B. NO. 51 R0959

EQUAL EDUCATIONAL OPPORTUNITY

QUARTERLY PROGRAM PROGRESS REPORT

TYPE OF GRANT BASIC	BILINGUAL	PILOT PROJECT	METRO	NONPROFIT GROUP	TITLE IV (CRA)
REPORT NUMBER →	1	2	3	4	5
DATE ENDING →					

NAME AND ADDRESS OF GRANTEE	SIGNATURE OF AUTHORIZED REPRESENTATIVE	GRANT NUMBER	SUBMISSION DATE OF REPORT

MAJOR EVENT (a)	STARTING DATE (b)		COMPLETION DATE (c)		ACTUAL ACCOMPLISHMENTS (d)	DIFFERENCE BETWEEN PROPOSED AND ACTUAL ACCOMPLISHMENTS (e)
	PLANNED	ACTUAL	PLANNED	ACTUAL		

OE FORM 257, 5 73

OMB NO. 80-R0180

FINANCIAL STATUS REPORT

1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT

2. FEDERAL GRANT NO. OR OTHER IDENTIFYING NO.

3. NAME AND ADDRESS OF GRANTEE ORGANIZATION

4. EMPLOYER IDENTIFICATION NO.

5. GRANTEE ACCOUNT NO. OR IDENTIFYING NO.

6. FINAL REPORT
☐ YES
☐ NO

7. BASIS OF REPORT
☐ CASH
☐ ACCRUED EXPENDITURES

8. PROJECT PERIOD (Month, Day, Year)
FROM | | TO | |

9. REPORT PERIOD (Month, Day, Year)
FROM | | TO | |

10. STATUS OF FUNDS	PROGRAMS - FUNCTIONS - ACTIVITIES						
	(1)	(2)	(3)	(4)	(5)	(6)	TOTAL
a. Total outlays previously reported							
b. Total program outlays this period							
c. LESS: Program income credits							
d. Net program outlays this period							
e. Total program outlays to date							
f. LESS: Non-Federal share of program outlays							
g. Total Federal share of program outlays							
h. Total unpaid obligations							
i. LESS: Non-Federal share of unpaid obligations							
j. Federal share of unpaid obligations							
k. Total Federal share of outlays and unpaid obligations							
l. Total Federal funds authorized							
m. Unobligated balance of Federal funds							

11. INDIRECT EXPENSE: a. TYPE OF RATE (Mark box)
☐ PROVISIONAL ☐ FINAL
☐ PREDETERMINED ☐ FIXED

b. RATE

c. BASE

d. TOTAL AMOUNT

e. FEDERAL SHARE

12. REMARKS (Attach additional sheets if necessary)

13. Certification - I certify that to the best of my knowledge and belief this report is correct and complete and that all outlays and unpaid obligations are for the purpose set forth in the grant award documents.

NAME	TITLE	TELEPHONE		
		AREA CODE	NUMBER	EXT.

SIGNATURE OF AUTHORIZED OFFICIAL

DATE REPORT IS SUBMITTED

HEW-601T

INSTRUCTIONS FOR PREPARING THE FINANCIAL STATUS REPORT

Item 1 – Enter the name of the Federal grantor agency and organizational element to which this report is submitted.

Item 2 – Enter the grant number or other identifying number assigned by the Federal grantor agency.

Item 3 – Enter the name and complete mailing address, including the ZIP code for the grantee organization.

Item 4 – Enter the employer identification number assigned by the U.S. Internal Revenue Service.

Item 5 – This space is reserved for an account number or other identifying numbers which may be assigned by the grantee.

Items 6 and 7 – Mark the appropriate boxes.

Item 8 – Enter the month, day, and year of the beginning and ending of this project period. For formula grants which are not awarded on a project basis, show the grant period.

Item 9 – Enter the month, day, and year of the beginning and ending dates of the period for which this report is prepared. The frequency of the report will be established by the Federal grantor agency.

PLEASE READ BEFORE COMPLETING ITEM 10 – The purpose of vertical Columns (1) through (6) is to provide financial data for each program, function, and activity in the budget as approved by the Federal grantor agency. If additional columns are needed, use as many additional forms as needed and mark *"continuation"* on each form; however, the summary totals of all programs, functions or activities should be shown in the *"total"* Column of the first page.

For grants pertaining to a single Federal grant program (catalog number) or several grant programs which do not require a functional or activity classification, enter under Columns (1) through (6) the title of the program(s). For grants pertaining to multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in separate columns. For grants containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal grantor agency.

Item 10 – STATUS OF FUNDS

Line a. Enter the total outlays reported on Line 10e of the last report. Show zero, if this is the initial report.

Line b. Enter the total gross program outlays for this report period, including disbursements of cash realized as program income. For reports which are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements , the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the grantee for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.

Line c. Enter the amount of all program income realized in this period which is to be used in the project or program in accordance with the terms of the grant. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of the net increase (or decrease) in the amount of accrued income since the beginning of the report period.

Line d. This amount should be the difference between amounts shown on Lines b and c.

Line e. Enter the sum of amounts shown on Lines a and d above.

Line f. Enter the amount pertaining to the non-Federal share of program outlays included in the amount on Line e.

Line g. Enter the Federal share of program outlays. The amount should be the difference between Lines e and f.

Line h. When the report is prepared on a cash basis, enter the total amount of unpaid obligations for this project or program including unpaid obligations to subgrantees. If the report is prepared on an accrued expenditure basis, enter the amount of undelivered orders and other outstanding obligations. Do *not* include any amounts that have been included on Lines a through g. On the final report, Line h should have a zero balance.

Line i. Enter the non-Federal share of unpaid obligations shown on Line h.

Line j. Enter the Federal share of unpaid obligations shown on Line h. The amount shown on this line should be the difference between the amounts on Lines h and i.

Line k. Enter the sum of the amounts shown on Lines g and j. If the report is final, the report should not contain any unpaid obligations.

Item l – Enter the total cumulative amount of Federal funds authorized.

Line m. Enter the unobligated balance of Federal funds. This amount should be the difference between Lines k and l.

Item 11 – INDIRECT EXPENSE

a. **Type of rate** – Mark the appropriate box.

b. **Rate** – Enter the rate in effect during the reporting period.

c. **Base** – Enter the amount of the base to which the rate was applied.

d. **Total Amount** – Enter the total amount of indirect cost charged during the report period.

e. **Federal Share** – Enter the amount of the Federal share charged during the report period.

If more than one rate was applied during the project period, include a separate schedule which shows the bases against which the indirect cost rates were applied, the respective indirect rates, the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date. (See Office of Management and Budget Circular No. A-87 which contains principles for determining allowable costs of grants and contracts with State and local governments.)

Item 12 – Space is provided for any explanation deemed necessary by the grantee or for the provision of information required by the Federal grantor agencies in compliance with the governing legislation.

Item 13 – Complete the certification before submitting this report.

☆ U.S. GOVERNMENT PRINTING OFFICE 1979—726-180/654 3-1

EQUAL EDUCATIONAL OPPORTUNITY **ACTION MEMO CONCERNING GRANTEE'S REQUEST FOR BUDGET REVISION**	GRANT NUMBER

NAME OF GRANTEE

TYPE OF GRANT TO BE REVISED

☐ BASIC ☐ PILOT ☐ BILINGUAL ☐ METRO ☐ NONPROFIT ☐ TITLE IV (CRA

ACTION RECOMMENDED: ☐ APPROVE THE REQUEST ☐ DENY THE REQUEST

COMMENT

SIGNATURE OF PROGRAM OFFICER	DATE	SIGNATURE OF REGIONAL PROGRAM MANAGER	DATE

ACTION TAKEN BY CONTRACTS AND GRANTS OFFICE: ☐ REQUEST APPROVED ☐ REQUEST DENIED

SIGNATURE OF REGIONAL CONTRACTING OFFICER	DATE

OE FORM 277, 5/73

EQUAL EDUCATIONAL OPPORTUNITY

SITE REVIEW PLAN

NAME OF GRANTEE

GRANT NUMBER

TEAM LEADER

REVIEW DATES

PURPOSE OF REVIEW

TEAM MEMBER	ASSIGNMENT	APPOINTMENTS *(person, place and time for each appointment)*

APPROVED BY PROGRAM MANAGER *(Signature)*

DATE

OE FORM 278, 5 73

EMERGENCY SCHOOL AID ACT

SITE REVIEW OF PROGRAM OPERATION - SCHOOL DISTRICTS

NAME OF GRANTEE	GRANT NUMBER
NAME OF REVIEWER	REVIEW DATE

NAME OF SCHOOL REVIEWED

NAMES AND POSITIONS OF PERSONS WHO WERE MAIN SOURCES OF INFORMATION

ACTIVITIES AUTHORIZED FOR ESAA *(as listed in Section 707 of the Emergency School Aid Act)*

1. SPECIAL REMEDIAL SERVICES
2. PROFESSIONAL STAFF
3. TEACHER AIDES
4. IN-SERVICE TEACHER TRAINING
5. GUIDANCE AND COUNSELING
6. CURRICULUM DEVELOPMENT
7. ☐ CAREER EDUCATION
8. INNOVATIVE INTERRACIAL ACTIVITIES
9. ☐ COMMUNITY ACTIVITIES
10. ☐ ADMINISTRATIVE SERVICES
11. ☐ PLANNING AND EVALUATION
12. ☐ REPAIR AND REMODELING

In each school that is reviewed, the monitoring team should determine which of the above twelve authorized activities are being conducted. Those being conducted should be checked off in the boxes provided. *(See Section 185.12 of the regulations for a more detailed explanation of each activity.)* The following questions should be answered for the activities which make up the ESAA program in the school under review. One of these forms should then be filled in for each school reviewed. The questions are designed to assist the monitor in determining whether or not the funded activities are being implemented as set forth in the approved application.

1. DO THE PERSONS CONDUCTING THE PROJECT HAVE ADEQUATE KNOWLEDGE AND UNDERSTANDING OF THE PURPOSES OF ESAA? *(Cite evidence of the relationship of the project activities to the purposes of ESAA)*

2. DO THE ACTIVITIES SUPPLEMENT THE REGULAR PROGRAM? *(Cite evidence)*

3. DO THE GRANTEE'S EVALUATION PROCEDURES INDICATE THAT OBJECTIVES ARE BEING ACHIEVED AS PLANNED? *(Cite any extenuating circumstances which preclude the grantee from achieving the objectives set out in the application)*

4. IS THERE EVIDENCE OF EDUCATIONAL ACHIEVEMENT IN READING AND MATHEMATICS WHICH HAS BEEN BROUGHT ABOUT BY THE PROJECT ACTIVITIES? *(Briefly describe evidence, such as control groups, testing procedures, etc.)*

5. ARE GROUPING PROCEDURES CARRIED OUT IN SUCH A WAY AS TO PREVENT MINORITY GROUP ISOLATION OR RESEGREGATION? *(If not, explain in detail)*

6. IN THE RECRUITING, HIRING, AND TRAINING OF TEACHER AIDES, WAS PREFERENCE GIVEN TO PARENTS OF CHILDREN ATTENDING SCHOOLS ASSISTED BY ESAA FUNDS? *(If not, explain)*

7. ARE THE ACTIVITIES EFFECTIVELY ADMINISTERED TO DELIVER THE SERVICES AGREED UPON IN THE APPLICATION? *(If not, explain)*

8. DO THE PROJECT ACTIVITIES HAVE IMPACT ON OTHER RELATED PROGRAMS, SUCH AS TITLES I, III, AND VII OF ESEA? *(Explain)*

9. DO THE PROJECT ACTIVITIES HAVE IMPACT ON THE COMMUNITY? *(Explain)*

10. IS THERE ANY EVIDENCE OF DISCRIMINATORY FACULTY ASSIGNMENT OR UNWARRANTED DISMISSAL OF MINORITY STAFF MEMBERS? *(If so, explain)*

11. WOULD YOU RECOMMEND THIS PROJECT FOR REPLICATION? WHY OR WHY NOT?

12. IS THERE EVIDENCE OF ANY DISCRIMINATORY POLICY OR PRACTICE DIRECTED AGAINST MINORITY PUPILS, SUCH AS POLICIES CONCERNING EXPULSION OR EXTRA-CURRICULAR ACTIVITIES? *(If so, explain)*

13. DOES THE ADVISORY COMMITTEE APPEAR TO MAKE SUBSTANTIAL CONTRIBUTIONS TO THE SUCCESS OF THE PROJECT?

14. ARE THE GRANTEE'S PROCEDURES FOR FINANCIAL MANAGEMENT ADEQUATE? *(Cite evidence)*

15. ARE THE GRANTEE'S GENERAL ADMINISTRATIVE PROCEDURES RELATED TO MATTERS SUCH AS PERSONNEL, REPORTS, SUPERVISION OF AND NEED FOR CONSULTANTS, ADEQUATE? *(Cite evidence)*

16. IF YOU FEEL IT APPROPRIATE, WRITE A BRIEF PARAGRAPH SUMMARIZING THE ANSWERS TO THE ABOVE QUESTIONS WHICH WERE THE MOST RELEVANT TO THIS PROJECT AND INCLUDING ANY ADDITIONAL OBSERVATIONS WHICH YOU FEEL SHOULD BE NOTED

EMERGENCY SCHOOL AID ACT
SITE REVIEW OF
PROGRAM OPERATION - NONPROFIT ORGANIZATIONS

GRANT NUMBER

NAME OF GRANTEE

NAME OF REVIEWER

REVIEW DATE

NAME OF PROJECT REVIEWED

NAME OF LEA BEING ASSISTED

NAMES AND POSITIONS OF PERSONS WHO WERE MAIN SOURCES OF INFORMATION

ACTIVITIES AUTHORIZED FOR ESAA *(as listed in Section 185.62 of the regulations)*

1. COMMUNITY INFORMATION PROGRAMS
2. HOME FOCUSED PROGRAMS
3. CULTURAL ENRICHMENT ACTIVITIES
4. INTERRACIAL SOCIAL AND RECREATIONAL PROGRAMS
5. INTERRACIAL EDUCATIONAL ENRICHMENT PROGRAMS
6. ☐ CAREER ORIENTATION ACTIVITIES
7. ☐ DROPOUT PREVENTION PROGRAMS
8. ☐ SUPPLEMENTAL REMEDIAL SERVICES
9. OTHER *(Specify)*

For each project that is reviewed, the monitoring team should determine which of the above authorized activities are being conducted. Those being conducted should be checked off in the boxes provided. *(See Section 185.62 of the regulations for a more detailed explanation of each activity.)* The following questions should be answered for the activities which make up the ESAA program of the NPO under review. The questions are designed to assist the monitor in determining whether or not the funded activities are being implemented as set forth in the approved application.

1. DO THE PERSONS CONDUCTING THE PROJECT HAVE ADEQUATE KNOWLEDGE AND UNDERSTANDING OF THE PURPOSES OF ESAA? *(Cite evidence of the relationship of the project activities to the purposes of ESAA)*

2. DO THE ACTIVITIES ACTUALLY SUPPLEMENT OR COMPLEMENT THE DESEGREGATION EFFORTS OF THE LEA? *(Cite evidence)*

OE FORM 286, 5/73

3. HAVE FORMAL PROCEDURES BEEN ESTABLISHED FOR LIAISON BETWEEN THE GRANTEE AND THE LEA? IS THIS LIAISON ADEQUATE? *(Check with both the grantee and the LEA)*

4. ARE THE GRANTEE'S PROCEDURES FOR FINANCIAL MANAGEMENT ADEQUATE? *(Cite evidence)*

5. ARE THE GRANTEE'S GENERAL ADMINISTRATIVE PROCEDURES RELATED TO MATTERS SUCH AS PERSONNEL, REPORTS, SUPERVISION OF AND NEED FOR CONSULTANTS ADEQUATE? *(Cite evidence)*

6. ARE THE ACTIVITIES EFFECTIVELY ADMINISTERED TO DELIVER THE SERVICES AGREED UPON IN THE APPLICATION? *(If not, explain)*

7. HAS THE GRANTEE ESTABLISHED AND ACTUALLY IMPLEMENTED ADEQUATE PROCEDURES FOR PROJECT EVALUATION AS WELL AS PROCEDURES FOR DATA COLLECTION? *(Cite evidence)*

8. DO THE GRANTEE'S EVALUATION PROCEDURES INDICATE THAT OBJECTIVES ARE BEING ACHIEVED AS PLANNED? *(Cite any extenuating circumstances which preclude the grantee from achieving the objectives set out in the application)*

9. IS THERE EVIDENCE OF EDUCATIONAL ACHIEVEMENT IN READING AND MATHEMATICS WHICH HAS BEEN BROUGHT ABOUT BY THE PROJECT ACTIVITES? *(Briefly describe evidence, such as control groups, testing procedures, etc.)*

10. WHAT TYPE OF IMPACT DO PROJECT ACTIVITIES HAVE ON THE GENERAL COMMUNITY SERVED BY THE LEA? *(Explain)*

11. WOULD YOU RECOMMEND THIS PROJECT FOR REPLICATION? WHY OR WHY NOT?

12. DOES THE ADVISORY COMMITTEE APPEAR TO MAKE SUBSTANTIAL CONTRIBUTIONS TO THE SUCCESS OF THE PROJECT?

13. IF YOU FEEL IT APPROPRIATE, WRITE A BRIEF PARAGRAPH SUMMARIZING THE ANSWERS TO THE ABOVE QUESTIONS WHICH YOU FEEL TO BE MOST IMPORTANT AND INCLUDING ANY ADDITIONAL OBSERVATIONS WHICH YOU FEEL SHOULD BE NOTED

TITLE IV

SITE REVIEW OF PROGRAM OPERATION

NAME OF GRANTEE/CONTRACTOR

GRANT/CONTRACT NUMBER

NAME OF REVIEWER

REVIEW DATE

NAMES AND POSITIONS OF PERSONS WHO WERE MAIN SOURCES OF INFORMATION

The following questions, if applicable, should be answered for the activities which make up the Title IV program. The questions are designed to assist the monitor in determining whether or not the funded activities are being implemented as set forth in the approved application.

1. IS THE PROJECT IN OPERATION? DO THEY HAVE QUARTERS AND STAFF? *(first site review only)*

2. IS THE PROJECT PLACED IN THE HIERARCHY OF THE UNIVERSITY OR ORGANIZATION SO THAT IT CAN PERFORM ITS FUNCTION EFFECTIVELY? WHATE IS THE LINE OF COMMAND? HOW VISIBLE ARE THEY? *(NA INT)*

3. DO THEY HAVE A CONSULTANT LIST? IF SO, WHO ARE THEIR CONSULTANTS – ARE THEY WITH DIFFERENT TYPES OF EXPERTISE? IF THEY DON'T HAVE A CONSULTANT LIST, EXPLAIN WHY NOT. *(GACs and SEAs only)*

4. WHAT IS THE GAC/SEA/INT DOING IN THE SCHOOL SYSTEM? IS IT WORKING? EXPLAIN. *(NA: LEA)*

5. ARE THE ACTIVITIES THE PROJECT IS CARRYING ON THOSE ACTIVITIES OUTLINED IN THE APPLICATION? IF NOT, EXPLAIN.

6. IS THE EVALUATION PROCEDURE AS DESIGNED IN THE APPLICATION IN USE? IF NOT, EXPLAIN.

7. DO YOU NOTE EVIDENCE OF ANYTHING THAT SHOULD BE REFERRED TO OCR FOR FURTHER INVESTIGATION?

8. IS THE GRANT MONEY BEING SPENT FOR PROJECT ACTIVITIES, e.g., ARE THE CONSULTANTS BEING USED IN DESEGREGATION-RELATED ACTIVITIES? IF NOT, EXPLAIN.

9. HOW MANY REQUESTS FOR ASSISTANCE HAVE THEY RECEIVED IN ADDITION TO THOSE REQUESTS LISTED IN THE APPLICATION? *(Ask to see the letters of request, make a note of clientele you wish to contact) (NA: LEAs)*

10. IS THE CENTER/INSTITUTE/ASSISTANCE UNIT RECEIVING REQUESTS TO WHICH THEY ARE UNABLE TO RESPOND? IF SO, WHY? *(NA: LEA)*

11. BASED ON CONTACT WITH THE GRANTEE'S/CONTRACTOR'S CLIENTS, ARE AUTHORIZED SERVICES BEING RENDERED SATISFACTORILY? THEIR SUGGESTIONS FOR IMPROVEMENT.

12. DOES THE CENTER/DESEGREGATION SPECIALIST/STATE ASSISTANCE UNIT HAVE DIRECT ACCESS TO AND CONTINUOUS COMMUNICATION WITH THE SUPERINTENDENTS AND SCHOOL BOARDS OF DISTRICTS REQUESTING ASSISTANCE? IF NOT, EXPLAIN. *(NA: INT)*

---

13. DOES THE PROJECT STAFF REFLECT THE RACIAL OR ETHNIC COMPOSITION OF THE POPULATION TO BE SERVED? IF NOT, EXPLAIN. *(SEAs and GACs, only)*

---

14. TO WHAT DEGREE IS COMMUNITY INVOLVEMENT, AS SPELLED OUT IN THE APPLICATION, BEING IMPLEMENTED? CITE EVIDENCE. *(LEAs only)*

15. IS THE INSTITUTE TRAINING BEING CONDUCTED AS SPELLED OUT IN THE APPLICATION? IF NOT, EXPLAIN. *(INTs only)*

16. AFTER THE INSTITUTE TRAINING IS OVER, IS THERE CONTINUOUS INVOLVEMENT BETWEEN THE LEA AND INSTITUTE? CITE EVIDENCE. *(INTs only)*

17. IN THE OPINION OF THE SEA PROJECT DIRECTOR, ARE THE ACTIVITIES OF THE TITLE IV UNIT HAVING ANY IMPACT ON THE SEA AS A WHOLE? IF SO, EXPLAIN. *(SEAs only)*

18. ANY ADDITIONAL OBSERVATIONS WHICH YOU FEEL SHOULD BE NOTED.

EMERGENCY SCHOOL AID ACT

SURVEY OF DISTRICT-WIDE ADVISORY COMMITTEE PARTICIPATION IN ESAA GRANTS

GRANT NUMBER

NOTE To be completed by the chairman of the advisory committee during site review.

NAME OF GRANTEE

NAME OF CHAIRMAN OF ADVISORY COMMITTEE

DATE

1. COMMITTEE MEMBERSHIP

a. What is the racial composition of the advisory committee?

b. How many members are parents of children attending school in the school district?

c. How many members are secondary students attending school in the district?

d. How many members are teachers in the district?

e. How many members are administrators or school board members in the district?

f. What civic organizations are represented?

2. YES NO WERE THE MEMBERS APPOINTED TO THE COMMITTEE AT LEAST 15 DAYS PRIOR TO THE SUBMISSION OF THE APPLICATION?

3. YES NO WHEN THE COMMITTEE WAS ESTABLISHED, WERE MEMBERS PROVIDED WITH COPIES OF THE ACT AND THE REGULATIONS?

4. YES NO WAS THE COMMITTEE CONSULTED IN IDENTIFYING PROBLEMS AND ASSESSING THE NEEDS TO BE ADDRESSED BY THE APPLICATION?

5. YES NO WERE MEMBERS AFFORDED A REASONABLE OPPORTUNITY *(not less than 10 days)* TO REVIEW AND COMMENT ON THE APPLICATION?

6. YES NO WERE THE NAMES OF THE MEMBERS OF THE ADVISORY COMMITTEE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION OR OTHERWISE MADE PUBLIC BEFORE THE APPLICATION WAS SUBMITTED?

7. YES NO **SCHOOL DISTRICT GRANTEES ONLY** – WAS AT LEAST ONE OPEN PUBLIC HEARING HELD WITH PARENTS, TEACHERS, AND SECONDARY SCHOOL STUDENTS, *(including but not limited to the members of the district-wide advisory committee)* PRIOR TO THE SUBMISSION OF THE APPLICATION?

8. ☐ YES ☐ NO **SCHOOL DISTRICT GRANTEES ONLY** – WAS THE COMMITTEE AWARE THAT A MAJORITY OF ITS MEMBERS COULD REQUEST AN INFORMAL HEARING WITH THE ASSISTANT SECRETARY FOR EDUCATION OR HIS REPRESENTATIVE PRIOR TO THE APPROVAL OF THE ESAA APPLICATION?

9. ☐ YES ☐ NO IS A FORMAL MEETING OF THE ADVISORY COMMITTEE HELD AT LEAST ONCE A MONTH AT WHICH ARE DISCUSSED POLICY MATTERS ARISING IN THE ADMINISTRATION AND OPERATION OF THE ESAA APPLICATION?

10. ☐ YES ☐ NO HAS THE COMMITTEE HAD REASONABLE OPPORTUNITY TO OBSERVE AND COMMENT ON ALL PROJECT-RELATED ACTIVITIES?

11. ☐ YES ☐ NO ARE YOU AWARE THAT ANY AMENDMENT OF OR ADDITION TO THE APPLICATION CANNOT BE APPROVED AND FUNDS CANNOT BE MADE AVAILABLE UNTIL THE AMENDMENT OR ADDITION IS REVIEWED AND OPPORTUNITY IS PROVIDED FOR COMMENT BY THE ADVISORY COMMITTEE?

12. ☐ YES ☐ NO **SCHOOL DISTRICT GRANTEES ONLY** – ARE YOU AWARE THAT ANY AMENDMENTS OR ADDITIONS TO THE APPROVED APPLICATION WHICH HAVE BEEN SUGGESTED BY THE ADVISORY COMMITTEE MUST BE FORWARDED BY THE SCHOOL DISTRICT TO THE REGIONAL OFFICE?

OE FORM 285, 5/73

EMERGENCY SCHOOL AID ACT

DISTRICT-WIDE ADVISORY COMMITTEE REVIEW REPORT

NAME OF GRANTEE

GRANT NUMBER

NAME OF REVIEWER

REVIEW DATE

ITEM	CHECK ONE		COMMENT
	SATIS-FAC-TORY	UNSATIS-FAC-TORY	
1. Committee Membership (a) Minority-Nonminority Representation			
(b) Representation of Civic Organizations			
(c) Representation of Faculty, Administration and/or School Board			
(d) Parent Representation			
(e) Student Representation			
2. Pre-Submission Activity (a) Committee formed in advance of submission			
(b) Members given copies of Act and regulations			
(c) Committee consulted in development process			
(d) Committee given time to review application			
(e) Membership advertised properly			
(f) Open public hearing held prior to submission *(LEA's only)*			
(g) Members aware of right to outside hearing *(LEA's only)*			
3. Monthly meetings held in accordance with regulations			
4. Committee able to observe project activities			
5. Committee aware of rights concerning amendments to project			
6. Minutes taken in monthly meetings			

OE FORM 281, 5/73

EMERGENCY SCHOOL AID ACT

SURVEY OF STUDENT ADVISORY COMMITTEE PARTICIPATION IN ESAA GRANT

GRANT NUMBER

NAME OF GRANTEE

NAME OF CHAIRMAN OF STUDENT ADVISORY COMMITTEE

NAME OF SCHOOL

DATE

1. WHAT IS THE RACIAL COMPOSITION OF THE COMMITTEE?

CHECK ONE FOR EACH QUESTION

2. ☐ YES ☐ NO WERE MEMBERS SELECTED BY THE STUDENT BODY OR THE STUDENT GOVERNMENT IN YOUR SCHOOL? *(Answer "yes" if selected by either of these two groups. Answer "no" if selected by any other person or group)*

3. ☐ YES ☐ NO WERE THE MEMBERS OF THE STUDENT ADVISORY COMMITTEE SELECTED SOON AFTER APPROVAL OF THE ESAA APPLICATION OR SOON AFTER THE BEGINNING OF THE SCHOOL YEAR *(if the application was approved over the summer)*?

4. ☐ YES ☐ NO WERE THE NAMES OF THE MEMBERS OF YOUR ADVISORY COMMITTEE, ALONG WITH THE PURPOSES OF THE COMMITTEE, PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION OR OTHERWISE MADE PUBLIC WITHIN 10 DAYS AFTER THE SELECTION OF MEMBERS?

5. ☐ YES ☐ NO HAVE THE MEMBERS RECEIVED COPIES OF THE ESAA ACT AND THE ESAA REGULATIONS?

6. ☐ YES ☐ NO DID THE MEMBERS RECEIVE A COPY OF YOUR SCHOOL DISTRICT'S APPROVED ESAA APPLICATION?

7. ☐ YES ☐ NO HAS YOUR COMMITTEE MET REGULARLY WITH YOUR SCHOOL ADMINISTRATION TO DISCUSS MATTERS RELATED TO THE ESAA PROJECT?

OE FORM 287, 5/73

EMERGENCY SCHOOL AID ACT **STUDENT ADVISORY COMMITTEE REVIEW REPORT**	NAME OF GRANTEE	GRANT NUMBER
	NAME OF REVIEWER	REVIEW DATE

ITEM	CHECK ONE		COMMENT
	SATISFACTORY	UNSATISFACTORY	
1. Committee Membership (a) Minority-Nonminority Representation			
(b) Selected by student body or student government			
(c) Selected within 15 days of program approval			
(d) Names of members published within 10 days after their selection			
2. Members provided copies of ESAA Act, regulations, and LEA's application			
3. Meetings scheduled regularly with school administrations regarding ESAA project			
4. Committee established in each secondary school involved in project			

OE FORM 282, 5/73

EMERGENCY SCHOOL AID ACT

SITE REVIEW STATISTICAL REPORT

NAME OF GRANTEE

GRANT NUMBER

TEAM LEADER

REVIEW DATES

ITEM	DATA ON APPLICATION	DATA SHOULD BE MOST CURRENT AVAILABLE		DEVIATIONS NOTED AND EXPLANATIONS
		DATA IN OCR RECORDS	DATA FROM SITE REVIEW	
1. District-wide student enrollment				
2. Minority enrollment (a) Negro				
(b) American Indian				
(c) Spanish-surnamed				
(d) Portuguese				
(e) Oriental				
(f) Hawaiian Native				
(g) Alaskan Native				
(h) Nonminority				
3. **TOTAL** number of students involved in this project				
4. Students involved in this project (a) Negro				
(b) Spanish-surnamed				
(c) American Indian				
(d) Oriental				
(e) Other Minority				
(f) Nonminority				

OE FORM 279, 5/73

ITEM	DATA ON APPLICATION	DATA SHOULD BE MOST CURRENT AVAILABLE		DEVIATIONS NOTED AND EXPLANATIONS
		DATA IN OCR RECORDS	DATA FROM SITE REVIEW	
5. District-wide Teaching Staff				
6. District-wide number of minority teachers (a) Negro				
(b) American Indian				
(c) Spanish-surnamed				
(d) Portuguese				
(e) Oriental				
(f) Hawaiian Native				
(g) Alaskan Native				
7. **TOTAL** number of non public school students involved in this project				
8. Nonpublic school students involved in this project (a) Negro				
(b) Spanish-surnamed				
(c) American Indian				
(d) Oriental				
(e) Other Minority				
(f) Nonminority				

EQUAL EDUCATIONAL OPPORTUNITY **QUARTERLY REGIONAL MONITORING SUMMARY REPORT**	REGION	STATE	DATE OF REPORT

GRANTEE (Indicate name and location of each grantee, the type of project being conducted, and the funding level) (a)	REVIEW DATA (Indicate name(s) of program officer(s) participating in the review. If more than one, identify team leader. Cite date that review took place.) (b)	DESCRIPTION OF FINDINGS (Describe evidence of grantee's success in carrying out planned objectives. Describe problems and indicate whether each is program, fiscal, or OCR) (c)	SUMMARY OF ACTIONS RECOMMENDED (Describe corrective actions, technical assistance, negotiations, and other follow-up procedures taken or recommended. Give estimated date for completion of all recommended actions.) (d)	LEGAL PROCEEDINGS (Report legal proceedings in progress or planned, including all relevant dates.) (e)

OE FORM 283, 5/73

EQUAL EDUCATIONAL OPPORTUNITY

NOTIFICATION OF NON-COMPLIANCE WITH REGULATIONS AND REQUIREMENTS OF GRANT/CONTRACT

☐ TITLE IV ☐ ESA

GRANT NUMBER

DATE OF SITE REVIEW

DATE OF GRANTEE QUARTERLY REPORT

NAME OF GRANTEE	ADDRESS *(Include number, street, city, State and ZIP code)*

NATURE OF NON-COMPLIANCE

☐ PROGRAM ☐ FISCAL ☐ CIVIL RIGHTS

TO BE FILLED IN BY PROGRAM OFFICER

ACTIVITY	EVIDENCE OF NON-COMPLIANCE	RECOMMENDATION FOR CORRECTIVE ACTION

SUBMITTED BY *(Signature)*

DATE

TO BE COMPLETED BY REGIONAL OR WASHINGTON OGC

DESCRIBE DATES AND EXTENT OF ANY TECHNICAL ASSISTANCE PROVIDED; DETAILED INFORMATION ON ANY NEGOTIATIONS FOR VOLUNTARY COMPLIANCE; CORRESPONDENCE WITH THE GRANTEE REGARDING THE VIOLATION(S); AND A SUMMARY OF FINDINGS OF SITE REVIEWS RELEVANT TO THE VIOLATION(S)

CORRECTIVE ACTION REQUIRED	SCHEDULE FOR IMPLEMENTATION

SUBMITTED BY *(Signature)*

DATE

OE FORM 284-1, 11/73

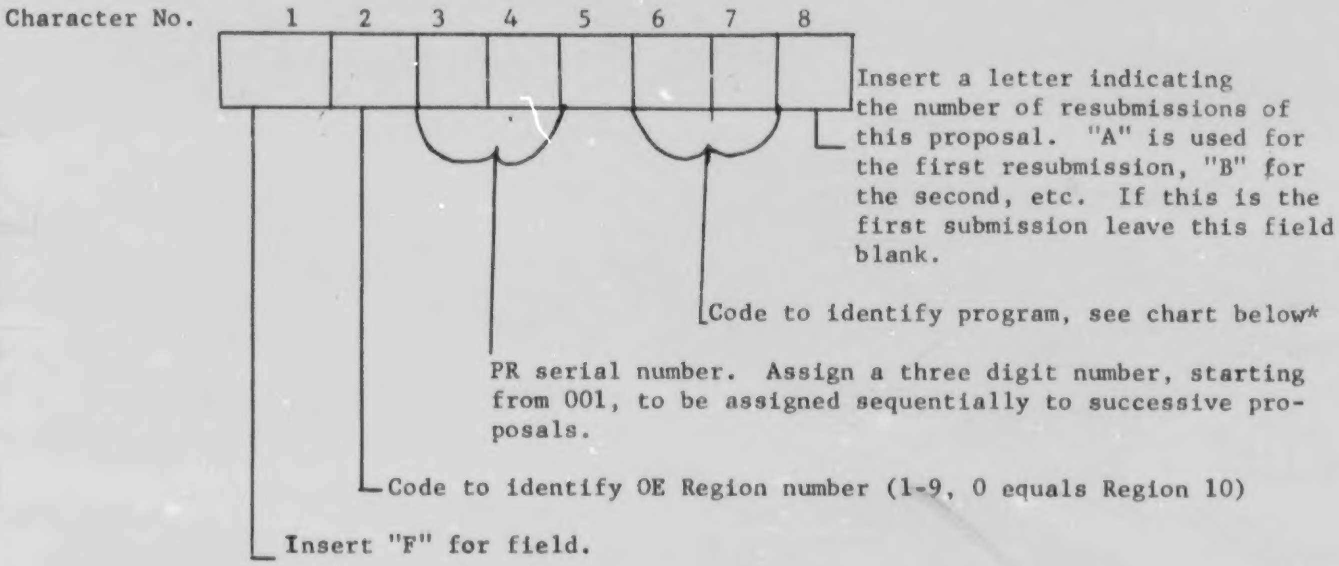
APPENDIX C

PR NUMBERS

&

PCS INSTRUCTIONS

PR Number



Insert a letter indicating the number of resubmissions of this proposal. "A" is used for the first resubmission, "B" for the second, etc. If this is the first submission leave this field blank.

Code to identify program, see chart below*

PR serial number. Assign a three digit number, starting from 001, to be assigned sequentially to successive proposals.

Code to identify OE Region number (1-9, 0 equals Region 10)

Insert "F" for field.

*For ESA programs, characters 6 and 7 will be as follows:

Basic	TA
Pilot	TB
Bilingual	TD
Nonprofit	TE

For all Title IV programs, characters 6 and 7 will be SB. For internal control purposes, please add the following suffixes to your Title IV PR numbers:

LEA	SB-L
SEA	SB-S
INT	SB-I
GAC	SB-G

These 8 character Title IV PR numbers are to be used for all purposes except when completing the PCS form or any other communication with the Washington Application Control Center, at which time the suffixes should be deleted.

APPENDIX C

Instructions for Completing PGIS - Media 36

Header Control Block

	USER			MEDIA		LOG				ACT	UP
>	T	3	4	3	6					1	C
1	2	3	4	5	6	7	8	9	10	11	12

This field will always contain the characteristics

Assign a three digit number, starting from 001, to each application and insert in Fields 8,9 and 10 above. The log numbers should be assigned sequentially to successive proposals.

Insert the regional code number representing the region, as shown in Table 1

Fields 2, 3 and 4 will always contain the characters "T 3 4."

APPENDIX D

EMERGENCY SCHOOL AID PROGRAM

BUDGET REVIEW GUIDE

This document is intended as a guide for the Regional Contracting Officer and Project Officer during their review of the Applicant's detailed budget.

PART A provides general policy statement regarding treatment of costs under the Emergency School Aid Program.

PART B lists those costs which are normally considered unallowable under the Emergency School Aid Program and must therefore be deleted from the Applicant's proposed budget.

ESA GENERAL COST POLICIES

PART A

1. ESA grant funds may be used only for current, incremental costs which meet the specific requirements of the ESA program activity under which support is requested, as follows:

    a. Basic LEA Projects: Costs must be related to the implementation of an approved plan for desegregation or to reduce, eliminate or prevent minority group isolation;

    b. Pilot LEA Projects: Costs do not have to be related to implementation of a plan, but must result directly from activities designed to overcome the adverse educational effects of minority group isolation in minority group isolated schools;

    c. Non-Profit Organization Projects: Costs must result directly from activities which support the development or implementation of an acceptable LEA plan for desegregation or to reduce, eliminate or prevent minority group isolation;

    d. Bilingual Projects: Costs must result directly from activities designed to overcome the adverse educational effects of linguistic or cultural differences.

2. Part B cites "Entertainment Expenses" as an unallowable item of cost. In certain instances, costs that would ordinarily be classified as entertainment might be treated as allowable if (a) they are an integral part of the overall program, and (b) they do not constitute a significant amount.

3. "Contingency Costs" are cited as unallowable by Part B. For purposes of this Program, "contingency" is not interpreted to cover either (a) anticipated "automatic salary increases" or (b) approved indirect cost or fringe benefit rates which have not yet been implemented.

4. Student transportation costs must be directly related to the educational needs addressed by the application and to the activities which will be conducted under the proposed budget. Such costs must be consistent with Title VIII of the Education Amendments of 1972.

5. Residual funds: If an ESAP Grantee is awarded an ESA Grant, any residual funds under ESAP should be returned to USOE upon completion of the ESAP project; they cannot normally be applied to the ESA project.

6. Subcontracting is discouraged under ESA, except in those instances where the required effort is of a unique or technical nature not ordinarily within the capabilities of the Grantee, or where the nature of the effort necessitates an independence from the Grantee, such as evaluation. In no instance should effort be subcontracted if it will substantially diminish the Grantee's administrative control over the project. The Grantee must be apprised of the

requirement that all subcontracts be reviewed and approved by the Project Officer and Contracting Officer (in writing) prior to execution.

(NOTE: If Consultants are to be utilized for five (5) days or more, their services should be obtained by subcontract. This subcontract should stipulate what services are to be performed, when and where, and should require the preparation of a final report by the Consultant.)

7. Lease of outside facilities: Wherever possible, any office space made necessary by this project, and space required for pre-service and/or in-service training, should be made available at the Applicant's present facilities. Leased-facilities should be utilized only after the Applicant has exhausted all other sources of providing space at no cost to the Project.

8. Purchase/Lease of Equipment: Passenger motor vehicles (except those used for group student transportation -- see paragraph 4 above) may not be leased or purchased for this Program, nor may they be acquired through GSA sources. Costs of office equipment and furniture are allowable only to the extent that they are required as a direct result of increased Project staff, and the equipment/furniture is not available from the Applicant's existing facilities. In all but exceptional instances, the equipment and property acquired by the Grantee with ESA funds should be the lowest-priced equipment/property available that is capable of performing in a satisfactory manner and should be procured on a competitive basis.

   As a general rule, purchase or lease or the following types of equipment will not be approved: playground equipment, sports/game equipment, sports uniforms, and band instruments/uniforms.

9. Travel: No out-of-state travel is authorized except to participate in USOE sponsored meetings and conferences, unless approved in writing by USOE, and such travel should be restricted to the Grantee's key personnel. No travel by Advisory Committee members is authorized unless approved by USOE in writing.

   In the absence of local policies to the contrary, the following limitations shall apply to Grantee travel:

   (a) Air travel shall be based upon less than first-class accommodations.

   (b) Per diem shall be limited to $25.00 per day.

   (c) Travel by private auto shall be limited to 11c per mile.

10. Staff Compensation: Proposed salary levels for Project staff should be consistent with comparable positions in the area, and should be commensurate with the staff member's education and experience; any

significant increase over a previous salary level requires specific justification. Relocation expenses of Project staff is not an allowable item of cost.

11. Training of Project Staff: For pre-service and/or in-service training of Project staff, the training must be directly related to the problems encountered in eliminating or preventing minority group isolation of the effects thereof. Participants may be paid stipends for pre-service and in-service training, provided that the training is conducted outside of regular school hours and (if possible) at the grantee's facility. Level of stipend payments will be in accordance with local policy, but should not exceed the hourly wage of the participant, or $150.00 per week for extended training sessions. Participants may be reimbursed for travel costs if the training must be conducted at a site more than ten (10) miles from the grantee's facility.

12. Staffing levels: The number of staff permanently employed on the project should be held to the minimum commensurate with effective handling of routine, authorized workload. Peak workload situations may best be met by hiring temporary personnel.

PART B UNALLOWABLE COSTS

The following costs are normally considered unallowable under the Act and the Regulations, and will be deleted from the Applicant's Budget.

1. Pre-agreement Costs: Any costs which have already been incurred by the Applicant in anticipation of a Grant Award.

2. Facilities Costs: Purchase of land; purchase or construction of new facilities; or major structural changes to existing facilities.

3. Excessive Alteration Costs: Repair, remodeling and/or alteration costs in excess of 10% of total Budget costs.

4. Contingency Costs: Contributions to a contingency reserve or any other similar provision for unforeseen events.

5. Entertainment Expenses: Costs of amusements, social activities, and incidental costs related thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities.

6. Supplanted Costs: Any costs deemed to be an "ongoing expense" of an LEA; i.e., any cost that the LEA was already incurring, or would normally be responsible for, at State or local expense.

7. Excessive Salary Compensation: If a staff member is involved simultaneously in two or more Federal projects, he may not be reimbursed for more than 100% time from such Government funds for all projects during a given period of time.

APPENDIX E

8. Costs of Government Employees: Grantee may not pay a fee to, or expensives of, an employee of the Federal Government.

9. Unallowable Indirect Costs: By law and regulation only incremental costs arising from the ESA project can be funded under ESA. (See Section 185.12(a) of the Regulations.) Reasonable judgment should be exercised in using any overhead rate to insure that all items making up that rate are incremental ESA costs.

10. Other Unallowable Costs:

    (a) Salaries of full-time employees of State and Local Governments (other than LEA employees).

    (b) Grantee contributions and donations.

    (c) Grantee bad debts.

    (d) Fines and penalties.

    (e) Interest and other financial costs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

LETTER TO GRANTEE/CONTRACTOR REGARDING MONITORING AND REPORTING OF PROGRAM PERFORMANCE
TITLE IV AND ESAA

Date:

Dear ________________:

Congratulations on your ESA/Title IV grant/contract. My staff and I look forward to working with you in achieving successful implementation of your project.

As part of the administration of the contract/grant awarded, you are expected to establish an ongoing monitoring system to ensure that time schedules are being met and performance objectives achieved.

All ESA/Title IV grantees/contractors are required to submit two (2) quarterly reports to the regional office; the Quarterly Program Progress Report, and Financial Status Report (See attached Instructions).

A regional program officer has been assigned to monitor your grant/contract and serve as liaison between you and this office. If between reporting periods you find that you require assistance in project implementation or operation, you should immediately contact the program officer assigned to your grant/contract at the following address for such assistance:

Name
Address
Telephone

At the close of the project period, two final reports must be submitted to the regional office. One report, the Final Program Progress Report, will incorporate information in the quarterly reports and the results of the grantee's/contractor's final evaluation of the project. The other report will be a final Financial Status Report which will provide an accounting of all moneys received under the ESA/Title IV grant/contract.

If you need further assistance in preparing your reports, please do not hesitate to contact the program officer assigned to your grant/contract.

Sincerely,

Program Manager

Attachments

Attachment

Instructions to the Grantee/Contractor for Monitoring and Reporting of Program Performance

I. The schedule for submission of the two required reports is as follows:

Reporting Period	Date Due in Regional Office
July 1 - September 30	October 30
October 1 - December 31	January 30
January 1 - March 31	April 30
April 1 - June 30	July 30

All reports should be submitted to the regional program officer assigned to your grant/contract.

II. Quarterly Program Progress Report (OE Form 257)

This quarterly report should indicate whether the time schedules are being met and performance objectives achieved as set forth in the application.

Column (a)	List the major events as listed in the Schedule of Implementation Plan submitted with the application and/or the performance objectives as outlined in the program narrative of the application.
Column (b)	Indicate the planned starting date for each major event as it appears in the Schedule of Implementation Plan. If the event was begun during reporting period, give the actual starting date.
Column (c)	Indicate the planned completion date for each major event as it appears in the Schedule of Implementation Plan. If the event was completed during reporting period, show the actual completion date.
Column (d)	List actual accomplishments of the objectives established for the reporting period. For Title IV, give the progress of the milestones by quantifying your achievements in terms of the number of teachers participating, number of meeting with local school board, number of requests for assistance

served, nature of requests served, and the like.

Column (e) Compare the actual accomplishment of the major events to the major events established for the reporting period. Indicate reasons for irregularities in cases where established objectives were not met. A statement of the action taken, or contemplated and any Federal assistance needed to resolve the situation should be attached to the report. In cases where there are delays in the time schedule, the report should indicate clearly which events are not on schedule and identify the nature of the problem(s) preventing completion of scheduled events. Enter other pertinent information including, when appropriate, analysis and explanation of cost over runs and high unit costs. Indicate also favorable developments or events which enable meeting time schedules and objectives sooner than anticipated.

Each Quarterly Program Progress Report will be reviewed upon receipt in the Regional Office. If it is determined that additional assistance will be necessary to accomplish project implementation, you will be contacted and necessary arrangements made for such assistance.

Between reporting dates, events may occur which will have detrimental impact on the achievement of objectives and/or meeting time schedules for major events. The Regional Office should be informed immediately when problems, delays, or adverse conditions which materially affect the ability to attain program objectives or prevent the meeting of time schedules or major events occur. This disclosure should be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

III. Financial Status Report (HEW 601T)

Detailed instructions for preparing the Financial Status Report are on the back of the report form. For LEA grants, under "Program-Functions-Activities" (1) through (6), list the activities as outlined in your approved budget (OE Form 116-1). The possible activities include special remedial services, staff training, guidance and counseling services, curriculum development, career education programs, innovative interracial programs, community activities, administrative and auxiliary services, planning and evaluation and, facility repair.

Label each box, (1) through (6), with the appropriate activity title. If additional columns are needed, use an additional form and mark "continuation" on the form.

For nonprofit organization grants lines (1) through (6) should list the categories as outlined in your approved budget (OE Form 116), except that the first two categories should be combined. Thus, the boxes should be labeled as follows: employee salaries and fringe benefits, travel and per diem, facilities rental, equipment purchase, contracted services, and other costs. No activities breakdown is required for Title IV grants.

This quarterly report should indicate whether the moneys expended correspond with the cost breakdown in the approved budget. If the recipient determines that there is a need for budget revision which requires prior approval from the Office of Education (See OE General Provisions 100a.29 for guidance), he/she should use the Budget form which was part of the original application in submitting a request for budget revision. A letter stating the reasons for the requested changes should be submitted with the form.

All requests for changes and amendments to approved grants shall be submitted on the same form as the original application, submitting only those affected pages of the application.

IV. Site Reviews

A minimum of two-site reviews will be made by Regional personnel. The purpose of these reviews will be to monitor program administration and financial status. The first such review will be scheduled shortly after the first reporting period. The second review will take place soon after the second quarterly reporting period. The purpose of this review will be to follow-up on any recommendations from the first review and to recommend mid-grant/contract corrections or revisions. Additional on-site reviews may bc scheduled by this office as necessary.

Grantees/contractors are expected to provide data that is necessary for carrying out on-site reviews as requested by regional program officers.

APPENDIX E

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federal register

January 18, 1974—Pages 2259–2335

FRIDAY, JANUARY 18, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 13
Pages 2259–2335

PART I

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

EMERGENCY SCHOOL AID—HEW to accept applications from local education agencies not eligible for normal funding schedules; effective 2–19–74 2285

GEOTHERMAL LEASE SALE—Interior Department decisions on geothermal resources conversion rights 2281

ENVIRONMENT—
- EPA establishes the Science Advisory Board 2296
- Applications for pesticide registration received by EPA; comments by 2–19–74 2296
- EPA decision on certain applications for permits for coyote control 2295

PAINTS AND INKS—Commerce Department voluntary standard for use in art education in schools; comments by 3–4–74 2285

RURAL ENVIRONMENTAL CONSERVATION PROGRAM—Agriculture Department issues draft environmental statement; comments by 2–25–75 2282

MOTOR VEHICLE WINDSHIELDS—DoT proposes new test procedures and extension of standard; comments by 3–4–74, proposed effective date 9–1–74 2274

OCCUPATIONAL SAFETY—Labor Department advance notice of proposed standard on exposure to inorganic mercury; comments by 3–25–74 2272

ATOMIC ENERGY—AEC issues three new regulatory guides 2288

UTILITY COMPANIES—FPC amends procedure for submission of applications; effective 1–10–74 2265

PART II:

WAGE DETERMINATION—Labor Department decisions for Federal and Federally assisted construction 2319

(Continued inside)

BEST COPY AVAILABLE

market conditions since the previous determination of estimated foreign cost was made.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on January 30, 1974, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, NW, Washington, DC 20230.

Dated: January 16, 1974.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-1708 Filed 1-17-74;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463 and Executive Order 11686, notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold a meeting from 9 a.m. to 12 noon on Wednesday, January 30, 1974, in Room B-255, Building 225, of the National Bureau of Standards in Gaithersburg, Maryland.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal information processing standards.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (Phone 301-921-3551).

Dated: January 15, 1974.

E. AMBLER,
Acting Director.

[FR Doc.74-1641 Filed 1-17-74;8:45 am]

PAINTS AND INKS FOR ART EDUCATION IN SCHOOL

Recommended Voluntary Standard; Notice of Circulation

The National Bureau of Standards is giving public notice that it is circulating the following recommended voluntary standard for a determination of its acceptability: TS 177a, "Paints and Inks for Art Education in Schools."

This circulation is being made in accordance with the provisions of § 10.5 of the Department of Commerce "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as amended; 35 FR 8349 dated May 28, 1970).

The purpose of the recommended standard is to establish nationally recognized quality, safety, and packaging requirements for school paints and block printing inks and to provide producers, distributors, and users with a basis for common understanding of the characteristics of these products.

Copies of this recommended standard may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standard should be addressed to the Office of Engineering Standards Services on or before March 4, 1974.

Dated: January 15, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-1540 Filed 1-17-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EMERGENCY SCHOOL AID

Notice of Acceptance of Applications

The Commissioner of Education hereby gives notice that pursuant to Title VII of Pub. L. 92-318, the Emergency School Aid Act, applications are being accepted from local educational agencies which have developed eligible plans as described in § 185.11 subsequent to April 1, 1973, and which did not apply for assistance under the Emergency School Aid Act prior to July 1, 1973, which plans are being, or are to be, implemented prior to February 10, 1974, and which have submitted applications for assistance for basic grants under section 706(a) of the Act for the project period July 1, 1974 through June 30, 1975, for special project grants under section 708(a) of the Act (45 CFR 185.91(b) of the implementing regulations).

Applications for assistance must be received on or before February 19, 1974. Such applications should be submitted to U.S. Office of Education, Application Control Center, 7th & D Streets, SW., ROB-3, Room 5673, Washington, D.C. 20202 (mailing address: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.525 and 13.532).

Receipt procedure. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms, in Washington, D.C. (In establishing the date of receipt, the Assistant Secretary will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

Project periods. Funds will be awarded for authorized activities commencing no earlier than February 19, 1974, and terminating no later than June 30, 1974.

Applicable regulations. Awards will be subject to 45 CFR Part 185, as such part appeared in the FEDERAL REGISTER on February 6, 1973 (38 FR 3450). Awards under section 708(a) will be subject to the amendments to 45 CFR Part 185 as such amendments appeared in the FEDERAL REGISTER on April 24, 1973 (38 FR 10092) and on August 10, 1973 (38 FR 21646). Awards under all sections of the Act shall be subject to such amendments to 45 CFR Part 185 as may be made in the future. Awards under all sections of the Act as described above are subject to the Office of Education General Provisions of 45 CFR Part 100 as published in the FEDERAL REGISTER November 6, 1973 (38 FR 30654).

(Catalog of Federal Domestic Assistance Programs Nos. 13.525 Emergency School Aid—Basic Grants and 13.532 Emergency School Aid—Special Projects)

(20 U.S.C. 1609(a))

Dated: January 16, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74-1673 Filed 1-17-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74-15 1]

NATIONAL OFFSHORE OPERATIONS INDUSTRY ADVISORY COMMITTEE

Public Meeting

This is to give notice pursuant to Pub. L. 92-463, sec. 10(a), approved October 6, 1972, that the National Offshore Operations Industry Advisory Committee will conduct an open meeting on January 30, 1974, in room 2232, NASSIF Building, 400 Seventh Street, SW., Washington, D.C. The meeting is scheduled to begin at 8:30 a.m. and is expected to last all day.

The agenda for the meeting will be the following:

1. Call to order.
2. Approval of minutes of 11-12 July 1973 meeting.
3. Committee organization and future activity.
4. Personnel.
5. Vessel safety.
6. Vessel admeasurement.
7. Fixed structure safety.
8. Portable tanks.
9. Occupational Safety and Health Act.
10. Law of the Sea.
11. Environmental matters.
12. Manned Subsea operations.
13. Miscellaneous.
14. Adjournment.

The National Offshore Operations Industry Advisory Committee was chartered on August 15, 1973, by the Commandant of the Coast Guard to advise

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federal register

TUESDAY, APRIL 24, 1973
WASHINGTON, D.C.
Volume 38 ■ Number 78
Pages 10059–10144

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

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This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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(Continued inside)

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[illegible] previous year and an estimate of operating expenses for the year with respect to which the voucher is submitted, amounts furnished by the State to the School for maintenance and support and [illegible] the requirements of section 5(b) of the Act as required by the Administration. A voucher submitted for an assistance payment not under the requirements of section 5(b) of the Act shall be supported by certified statements regarding operating expenses for the preceding year and an estimate of operating expenses for the year with respect to which the voucher is submitted and amounts furnished by the State to the School for maintenance and support. Upon approval by the Administration of the vouchers referred to above, payment shall be made by the Administration to the School. All vouchers and payments hereunder are subject to Administration General Order 87.

(b) The School shall submit a voucher monthly, in form approved by the Administration, for the subsistence payments provided for in article 2. Said voucher shall be supported by a certified daily attendance report listing the names of all students and the number of days each is entitled to payments as stated on such voucher. Upon approval of the voucher referred to above in this paragraph (b) by the Administration, payment shall be made by the Administration to the School. All vouchers and payments hereunder are subject to Administration General Order 87.

ART. 5 *Public information.*—It is understood that the School shall include in its curriculum catalogue, student information pamphlets, brochures, or other public information materials distributed, an adequate description of the financial assistance afforded the School and its students under the Act and this agreement.

ART. 6 *Regulations.*—This agreement is subject to all the provisions of Administration General Order 87. The School shall conform to said general order with respect to visitation rights of the Administration, reports and any other matters arising under this agreement.

ART. 7 *Officials not to benefit or be employed.*—No member of or delegate to Congress, nor Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom except that this provision shall not apply to this agreement if made with a corporation for its general benefit. (Act of June 25, 1948, 62 Stat. 702; 18 U.S.C. 431, 432 and 433.)

ART. 8 *Disputes.*—Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of by agreement shall be decided by the Administrator, designated under the terms of Administration General Order 87, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the School, which decision shall be final and conclusive unless within thirty (30) days from the date of receipt of such copy, the School appeals by mailing or otherwise furnishing said Administrator, a written appeal addressed to the Secretary of Commerce. The decision of the Secretary of Commerce or his duly authorized representative for the hearing of such appeal, [illegible] as necessarily to imply bad faith, or is not supported by substantial evidence, shall be final and conclusive. In connection with any appeal, the School shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the School shall proceed diligently with performance of the agreement in accordance with the decision of the Administrator.

ART. 9 *Duration of agreement.*—This agreement is effective as of the day and year hereinabove set forth and shall remain in full force and effect for a period of 1 year after said date, unless sooner terminated by either party as herein provided.

ART. 10 *Termination of agreement.*—This agreement may be terminated by either party upon sixty (60) days' written notice to the other party hereto: *Provided,* However, That notwithstanding any such termination the parties hereto shall continue to be responsible for the faithful performance of all of the terms and provisions of said agreement up to the effective date of such termination. Termination or expiration of this agreement shall neither affect nor relieve either party of any liability or obligation that may have arisen or accrued prior thereto.

ART. 11. *Renewal of agreement.*—Unless terminated on notice, as provided for herein, the rights and privileges granted to, and the obligations assumed by, the parties together with all other provisions of this agreement shall continue in full force and effect and shall be renewed from year to year for an additional period of one (1) year from the expiration date herein, unless either party shall at least three (3) months prior to the date of expiration of an additional 1 year period notify the other party in writing that it does not desire the agreement to be extended for such additional 1 year period. This agreement as extended year by year, as aforesaid, may be amended, modified, or supplemented in writing at any time by the mutual consent of the parties hereto.

In witness whereof, the United States of America, represented as aforesaid, has caused this agreement to be executed on its behalf in three counterparts on the day and year first written hereinabove.

UNITED STATES OF AMERICA,
DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION.
By: ____________________
Assistant Secretary of Commerce for Maritime Affairs.

MARITIME ACADEMY OR COLLEGE
By: ____________________
By: ____________________

Attest:
____
Secretary.

Attest:
____

Approved as to form:
____
General Counsel,
Maritime Administration.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated April 12, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-7705; Filed 4-23-73;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[illegible]

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Change of Nomenclature of "Hearing Examiner"

The purpose of this amendment to the regulations governing the availability to the public of the records of the Department of Transportation is to reflect the change of nomenclature from "Hearing Examiner" to "Administrative Law Judge".

In FR Doc. 72-14069, appearing on page 16787 of the August 19, 1972 issue of the FEDERAL REGISTER, the Civil Service Commission amended part 930 of title 5 of the Code of Federal Regulations by changing the nomenclature of "Hearing Examiner" to "Administrative Law Judge." The amendment in this document conforms to the change in 5 CFR Part 930 by making the same change wherever such nomenclature or similar nomenclature appears in appendix B of Part 7, Title 49, Code of Federal Regulations.

Since the amendment in this document relates to agency management, it is excepted by 5 U.S.C. 553(a) from the notice of proposed rulemaking procedures and from the requirements of an effective date of not less than 30 days after publication the FEDERAL REGISTER.

In consideration of the foregoing, appendix B of Part 7, Title 49, Code of Federal Regulations is amended as follows:

1. By striking the words "hearing examiner", "officer", and "hearing officer" wherever they appear and inserting "administrative law judge" in place thereof.

(46 U.S.C. 375, 416, 14 U.S.C. 633; 49 U.S.C. 1655(b)(1); 49 CFR 7.1(c) and 1.46(b).)

Effective date.—These amendments shall become effective on April 30, 1973.

Dated April 13, 1973.

C. R. BENDER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.73-7897 Filed 4-23-73;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 185—EMERGENCY SCHOOL AID

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 2, 1973, at 38 FR 5644, setting forth specific requirements for the award of assistance for metropolitan area projects under sections 706(a)(2) and 709 of the Emergency School Aid Act, for bilingual/bicultural projects under section 708(c) of the act, for educational television projects under section 711 of the act, for evaluation contracts under section 713 of the act, and for special projects under section 708(a) of the act. Such requirements were set forth as proposed subparts D, F, H, I, and J of this part 185.

Comments were received with respect to the required faculty composition in an integrated school to be established or maintained under sections 706(a)(2) and 709(a)(1) of the act (§ 185.31(a)(2)), the minimum enrollment required for an integrated education park to be assisted under the act (§ 185.31(c)(2)), the amount of information required of applicants for metropolitan area projects (§ 185.33), the advisory committee requirements related to certain types of metropolitan area projects (§ 185.37(b)), the requirement that applications for bilingual/bicultural projects be related to local educational agencies implementing a plan for desegregation or for the elimination, reduction, or prevention of minority group isolation (§ 185.51), the criteria for evaluating metropolitan area and bilingual/bicultural projects (§§ 185.34 through 185.36, 185.54), provision of information to bilingual/bicultural project committees or boards (§§ 185.55(a)(1) and (b)(1)), the requirement that applicants for educational television projects list the race of their key personnel (§ 185.73(e)(2)), opportunities for State educational agencies to comment upon educational television applications (§ 185.73) and the activities authorized under evaluation contracts and the information requested of applicants for such contracts (§§ 185.82, 185.83(a)). After review of the comments, the following changes were made:

A—SUMMARY OF CHANGES BASED ON COMMENTS RECEIVED

1. Section 185.31(c)(2) has been amended to allow local educational agencies applying for education park planning assistance to count elementary as well as secondary students in meeting the requirement that such parks enroll at least 5,000 students. Under section 709(a)(3) of the act, however, assistance may only be awarded to the extent that such parks provide secondary education.

2. Section 185.33 has been amended to eliminate the requirement that local educational agencies applying for metropolitan area projects provide the information required by § 185.13(i)(2) as to local fiscal effort and current expenditure per pupil, on the ground that such a requirement is unduly burdensome in the case of multiple applicants seeking assistance for metropolitan projects. Such applicants continue to be bound by the assurance as to maintenance of effort required by § 185.13(i)(1).

3. Because of the large number of local educational agencies which may apply jointly for area-wide plan and education park grants under §§ 185.31 (b) and (c), § 185.37(b)(3) has been amended to permit such applicants to limit to six the number of teachers named to the required advisory committee pursuant to § 185.41(c). In addition, since many standard metropolitan statistical areas include a number of minority groups which individually make up a very small percentage of the area's population, § 185.37(b)(1) has been amended to permit applicants under §§ 185.31 (b) and (c) to include members of such groups on their required advisory committees without having to match the representation required for nonminority group members and members of minority groups substantially represented in the community. Under the revised § 185.37 (b)(1) the number of members from all such insubstantially represented minority groups, taken together, must equal the number of members from each other racial or ethnic group represented on the committee.

4. A new § 185.55(c) has been added to insure that wherever possible, applicants for bilingual/bicultural projects will make the required publications, and will furnish the required materials to their project committees or boards, in the language of the appropriate minority group as well as in English.

5. Sections 185.82 and 185.83(a)(2) have been amended to emphasize the importance placed on statistical design and control in the award of evaluation contracts. In addition, § 185.83(a)(3) has been amended to require applicants for such contracts to indicate the race of their key personnel, in order to establish that such personnel are of sufficiently diverse backgrounds to insure adequate interpretation of data and appropriate management of the sensitive problems presented by evaluations in the area of equal educational opportunity. However, no particular proportion of minority or nonminority group personnel is required.

B—OTHER CHANGES

A number of minor changes have been made, either to correct clerical errors or to affect solely technical technical matters.

C—SUMMARY OF COMMENTS

1. A comment was received questioning the requirement in § 185.31(a)(2) that the percentage of minority group faculty members in an integrated school established or maintained under sections 706(a)(2) and 709(a)(1) of the Act be equal to the percentage of minority group students enrolled in such a school. The Act, in section 720(6), requires such schools (1) to enroll minority group students in a proportion at least equal to half the the percentage of such students enrolled in all the public elementary and secondary schools of the affected Standard Metropolitan Statistical Area, and (2) to have a faculty and administrative staff with "substantial representation" of minority group members. In view of the importance of creating in such schools a congenial atmosphere for minority group students enrolling as a result of interdistrict transfers, the faculty requirement set forth in § 185.31(a)(2) is considered to be the most reasonable interpretation of the statutory language. Where practicable, applicants in need of additional minority group teachers to fulfill this requirement will be encouraged to employ educators who have been displaced in the process of desegregation.

2. A number of commenters protested the requirement in §§ 1785.51 (a) and (b) that applications for bilingual/bicultural projects must be related to a local educational agency implementing a plan for desegregation or for elimination, reduction, or prevention of minority group isolation. These commenters noted that many local educational agencies in need of bilingual/bicultural assistance enroll high percentages of minority group students and thus cannot desegregate or eliminate, reduce, or prevent minority group isolation to any significant degree. Section 708(c) of the Act, however, expressly limits bilingual/bicultural assistance to local educational agencies which are eligible for (though not necessarily receiving) assistance under section 706 of the Act, which requires the types of plans discussed above. Since under § 185.54(a)(2), only 30 points are awarded for the effectiveness of such plans in evaluating applications for bilingual/bicultural projects (as opposed to 60 points in the case of applications for basic grants under section 706(a) of the Act), a local educational agency implementing a relatively modest plan (or a nonprofit applicant proposing to serve such an agency) may still be able to qualify for assistance on the basis of the other criteria set forth in § 185.54. Bilingual education assistance not related to desegregation or reduction of minority group isolation is available under title VII of the Elementary and Secondary Education Act of 1965.

3. One commenter questioned the weight given to statistical criteria in evaluating applications for metropolitan area projects (§§ 185.34(a), 185.35(a), 185.36(a)), and what the commenter considered the low number of points awarded under the proposed criteria for parent and community involvement in bilingual/bicultural projects (§ 185.54(b)(3)(iv)). It was felt that the number and percentage of minority group children in the affected school district or Standard Metropolitan Statistical Area was an important indication of need for a metropolitan area project, and that the anticipated reduction of minority group isolation was a primary factor in determining a particular project's effectiveness in accomplishing the statutory purposes set forth in sections 702(b) and 709 of the Act. Moreover, the proposed regulation, in §§ 185.34(c), 185.35(c), and 185.36(c), authorizes the Assistant Secretary not to approve any application which is educationally deficient, whatever its rating on the statistical criteria. In the case of bilingual/bicultural projects, no application can be considered for funding until the applicant has complied with the stringent community involvement requirements of section 710 (c)(2), as implemented by § 185.55 of the proposed regulation. The points awarded pursuant to § 185.54(b)(3)(iv) for parent and community involvement are for efforts above and beyond these already extensive threshold requirements.

4. One commenter objected to the inclusion of the race of key personnel in the information required under § 185.73(e)(2) of applicants for educational television projects. This information is for the purpose of enabling the Assistant Secretary to make the determination called for in section 711(b)(3) of the Act, as to whether the applicant will employ minority group members in responsible positions. As with a similar request for information under § 185.83(a)(3) with respect to evaluation contracts, no particular percentage of minority group employees is required. Nor should the request in § 185.73(e)(2) as to the race of personnel "to be employed" be taken as an attempt to impose a percentage requirement on future hiring; the regulatory language merely recognizes the fact that many applicants may not actually employ project staff members until their application is approved. In response to another comment, this subparagraph has been amended to include information as to the bilingual/bicultural background of staff members where the application is for a project directed at non-English dominant children.

5. One commenter asserted that State educational agencies should have an opportunity to review and comment upon applications for educational television projects under subpart H. State educational agencies, of course, may themselves apply for such projects, and local educational agencies applying under subpart H are required to provide the appropriate State agency with an opportunity to review and comment upon such applications (§ 185.73(c), incorporating § 185.13(j)). Where the applicant is another type of public or private agency which may propose to serve a wide geographical area, however, such a requirement was felt to be impracticable and unduly burdensome.

On March 3, 1973, after reviewing a draft of the proposed new subparts for one month, the National Advisory Council on Equality of Educational Opportunity, meeting in Washington, D.C., approved subparts D, F, H, and J of the proposed regulation. The amendments to subpart I described above reflect the comments of members of the National Advisory Council.

After consideration of the above comments and consultation with the National Advisory Council as required by section 716 of the Act, part 185 of title 45 of the Code of Federal Regulations is hereby revised as proposed, by addition of subparts D, F, H, I, and J as set forth below.

Federal financial assistance provided pursuant to the Emergency School Aid Act is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Such assistance is also subject to title IX of the Education Amendments of 1972 (20 U.S.C. 1681).

Effective date. As appears from the above summary, the modifications herein do not involve any changes of a substantial nature from the provisions which were published in the FEDERAL REGISTER on March 2, 1973, as proposed rulemaking. Accordingly, this regulation shall be effective on April 24, 1973.

Dated April 6, 1973.

S. P. MARLAND, Jr.,
Assistant Secretary for Education.

Approved April 20, 1973.

FRANK CARLUCCI,
Education, and Welfare.
Acting Secretary of Health,

PART 185—EMERGENCY SCHOOL AID

Subpart D—Metropolitan Area Projects

Sec.
185.31 Eligibility for assistance.
185.32 Authorized activities.
185.33 Applications.
185.34 Criteria for assistance (interdistrict transfers).
185.35 Criteria for assistance (area-wide plans).
185.36 Criteria for assistance (education parks).
185.37 Advisory committees.
185.38 Limitations on eligibility.
185.39–185.40 [Reserved]

Subpart F—Bilingual Projects

Sec.
185.51 Eligibility for assistance.
185.52 Authorized activities.
185.53 Applications.
185.54 Criteria for assistance.
185.55 Program or project committees.
185.56 Limitations on eligibility; nonpupil participation.
185.57–185.60 [Reserved]

Subpart H—Educational Television

185.71 Eligibility for assistance.
185.72 Authorized activities.
185.73 Applications.
185.74 Criteria for assistance.
185.75 Advisory committees.
185.76 Limitations on eligibility.
185.77–185.80 [Reserved]

Subpart I—Evaluation

185.81 Eligibility for awards.
185.82 Authorized activities.
185.83 Applications.
185.84 Criteria for awards.
185.85 Limitations on eligibility.
185.86–185.90 [Reserved]

Subpart J—Special Projects

185.91 Eligibility for assistance.
185.92 Applications.
185.93 Criteria for assistance.
185.94 Community involvement.

AUTHORITY: Except as specifically noted below, the provisions of these subparts of Part 185 are issued under title VII of Public Law 92-318, 86 Stat. 354–371 (20 U.S.C. 1601–1619).

Subpart D—Metropolitan Area Projects

§ 185.31 Eligibility for assistance.

(a) *Interdistrict transfers.* (1) A local educational agency (i) which is located within a Standard Metropolitan Statistical Area, or which serves a school district adjacent to a school district which is located wholly within such an area, and (ii) whose total student enrollment includes a percentage of minority group members which is smaller than the percentage of minority group members enrolled as students in all schools of the local educational agencies within such an area, may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(a), for the purpose of a joint arrangement with a cooperating local educational agency located within the same Standard Metropolitan Statistical Area (whose student enrollment includes a percentage of minority group members which is greater than the percentage of minority group members enrolled as students in all schools of the local educational agencies within such area) for the establishment or maintenance of one or more integrated schools.

(2) For purposes of this paragraph, an integrated school must have an enrollment in which (i) at least 40 per centum of the children are from families whose income is higher than the median family income for the school district served by the applicant, the appropriate Standard Metropolitan Statistical Area (or the appropriate governmental unit for which such information is available), or the Nation, whichever is lowest, or (ii) at least 50 per centum of the children currently score at or above the 60th percentile on a recognized standard reading achievement test, when compared either with students of a comparable age or grade level in the schools of the applicant or the appropriate Standard Metropolitan Statistical Area or with national norms, whichever is lowest, and (iii) the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area. In no event shall the minority group enrollment in any such school exceed 50 per centum. For purposes of this paragraph, such a school must have a faculty in which the percentage of minority group teachers, supervisors, and administrators, taken together, is equal to or greater than the percentage of minority group members in the student body of such school.

(3) A joint arrangement assisted under this subpart shall consist of the enrollment in schools of the applicant of students residing in the district served by, or attending the schools of, the cooperating local educational agency. No such arrangement shall result in an increase in the degree of minority group isolation in any school operated by any local educational agency. Students so enrolled by the applicant shall be selected from those who, in the absence of such enrollment, would be enrolled in, or assigned to, a minority group isolated school, and shall be representative of the larger group from which they are selected.

(20 U.S.C. 1605(a)(2), 1608(a)(1), 1619(6); Senate Rept. No. 92-61, p. 16)

(b) *Area-wide plans.* (1) Two or more local educational agencies located within a Standard Metropolitan Statistical Area may apply for a grant from funds reserved pursuant to § 185.95(a) for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in such area. Such a plan shall, at a minimum, provide that by a certain date (no later than July 1, 1983), the percentage of minority group children enrolled in each public elementary and secondary school in such area shall be at least 50 percent of the percentage of such children enrolled in all such schools in such area, and shall specify in detail the means by which such objective is to be achieved.

(2) No grant shall be made under this paragraph unless (i) two-thirds or more of the local educational agencies in a Standard Metropolitan Statistical Area have approved the application; (ii) the number of students in the schools of such agencies which have approved such application constitutes two-thirds or more of the students in all schools of the local educational agencies in such area; and (iii) at least one of the schools operated by a local educational agency in such area is a minority group isolated school.

(20 U.S.C. 1608(a)(2))

(c) *Education parks.* (1) One or more local educational agencies located within a Standard Metropolitan Statistical Area may apply for a grant from funds reserved pursuant to § 185.95(a) to pay all or part of the cost of planning an integrated education park.

(2) For purposes of this paragraph, an integrated education park is a school, or cluster of schools located on a common site (i) within a Standard Metropolitan Statistical Area; (ii) in which at least 5,000 elementary or secondary school students are regularly enrolled; (iii) providing secondary education as defined by the applicable State law; and (iv) with a student enrollment and faculty which conform to the requirements of paragraph (a)(2) of this section (except that in the case of an application pursuant to this paragraph by a single local educational agency, the proportion of minority group children enrolled in such an integrated education park shall be substantially the same as the proportion of minority group children enrolled in all schools of such agency).

(20 U.S.C. 1608(a)(3))

(d) *Agreements and approvals.* Applicants for assistance under this subpart shall provide assurances and information satisfactory to the Assistant Secretary establishing that a joint arrangement described in paragraph (a) of this section, the joint development of a plan described in paragraph (b) of this section, the required approvals of an application submitted pursuant to paragraph (b) of this section, or any other arrangement, agreement, or approval required pursuant to this subpart has been negotiated by or obtained from the appropriate local educational agency or agencies. Such required assurances or information may include:

(1) Signatures on applications for assistance under this subpart by authorized officials of such applicants or agencies;

(2) Copies of school board resolutions or other evidence of final official action approving and agreeing to carry out an arrangement or agreement or indicating an approval required pursuant to this subpart; and

(3) In the case of interdistrict transfers to be undertaken upon the award of assistance pursuant to paragraph (a) of this section, evidence that notice of the intent to engage in such a transfer program upon the award of such assistance has been published in a newspaper of general circulation serving all affected school districts no later than 20 days prior to submission of an application for such assistance.

(20 U.S.C. 1608)

§ 185.32 Authorized activities.

(a) *Interdistrict transfers.* Assistance made available pursuant to § 185.31(a) is authorized to be used for any of the authorized activities described in § 185.12(a) (1) through (12) when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such activities shall be directly related to, and necessary to, the establishment or maintenance of one or more integrated schools as described in § 185.31(a). Assistance made available pursuant to § 185.31(a) is also authorized to be used to pay the net cost, if any, to the applicant of the enrollment and education in such schools of students who are not residents of the school district served by the applicant and who, prior to the award of assistance pursuant to § 185.31(a), did not attend a school operated by the applicant.

(20 U.S.C. 1608(a)(1))

(b) *Area-wide plans.* Assistance made available pursuant to § 185.31(b) is authorized to be used for any activities reasonably necessary to the joint development of a plan described in § 185.31 (b), when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. No funds made available pursuant to § 185.31(b) shall be used for any costs related to construction or to any repair or remodeling.

(20 U.S.C. 1608(a)(2))

(c) *Education parks.* Assistance made available pursuant to § 185.31(c) is authorized to be used for activities reasonably necessary to the planning of an education park as described in § 185.31 (c), when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such activities may include demographic surveys, selection of construction sites, studies of academic achievement, development of educational specifications, and community and parental involvement. Funds awarded pursuant to § 185.31(c) shall not be used to pay any costs related to construction, preparation of construction sites, or purchase of land.

(20 U.S.C. 1608(a)(3))

§ 185.33 Applications.

An applicant desiring to receive assistance under this subpart for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds received under this subpart only for the activities set forth in § 185.32. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary. Such application shall comply with the requirements of § 185.13 (a) through (n), except that applications submitted pursuant to this subpart need not comply with § 185.13(i)(2), and applications for assistance under § 185.31 (b) and (c) need not comply with § 185.13(h) (with respect to the statement of procedures described therein) or § 185.13(n).

(20 U.S.C. 1608(a) (2) and (3))

§ 185.34 Criteria for assistance (interdistrict transfers).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(a), the Assistant Secretary shall apply the following statistical criteria (75 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of the local educational agency cooperating with the applicant for the fiscal year or years for which assistance is sought (30 points); and

(2) The net reduction in minority group isolation, in terms of the number of children affected, accomplished or to be accomplished by the interdistrict transfers to be assisted pursuant to § 185.31(a) (45 points). The term "net reduction in minority group isolation," for purposes of this subparagraph, means the number of minority group children, weighted by their relative degree of isolation prior to such transfers, removed from minority group isolated schools as a result of such transfers.

(20 U.S.C. 1609(c) (1), (2), and (3))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(a) on the basis of the following criteria (30 points):

(1) *Statement of objectives* (6 points). (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to students normally enrolled in the schools of the applicant and those enrolled or to be enrolled as a result of the proposed transfers; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to achieve the objectives identified in the application, and (*b*) such program, project, or activity involves to the

the extent practicable the total educational resources, both public and private, of the community to be served.

(2) *Activities (17 points)*—(i) *Project design (5 points)*. The extent to which (a) the proposed program, project, or activity emphasizes individualized instruction and services, (b) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity, (c) the proposed program, project, or activity promotes interracial and intercultural understanding, and (d) the proposed program, project, or activity involves both students regularly enrolled in the affected school and those affected by the proposed interdistrict transfers;

(ii) *Staffing (3 points)*. The extent to which the application (a) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (b) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity;

(iii) *Delivery of services (5 points)*. The extent to which the application contains evidence that (a) arrangements have been made for participation of students affected by the proposed transfers in extracurricular and afterhours activities at the school to which they are transferred, (b) arrangements have been made for the participation of parents of such students in school-related activities, and (c) school-related activities affecting such students will be carried out in their home communities; and

(iv) *Parent and community involvement (4 points)*. The extent to which the application (a) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37, and (b) includes evidence that such participation has been encouraged and has in fact occurred.

(3) *Resource management (3 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) the proposed project will be coordinated with related existing efforts.

(4) *Evaluation (4 points)*. The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(5) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the area of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(1), 1609(c)(1), (2), (4), and (6).)

(c) *Funding criteria*. In determining amounts to be awarded to applicants for assistance pursuant to § 185.31(a), the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance under this subpart and the other applications pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this subpart, or which sets forth a program, project, or activity, of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section, and shall take steps to insure a distribution of awards among the several types of programs, projects, or activities authorized by this subpart. No more than 30 per centum of the funds made available pursuant to § 185.31(a) (or § 185.31 (b) or (c)) shall be awarded to applicants in any one State in any fiscal year, unless the Assistant Secretary determines that the applications for such awards in excess of such amount are of exceptional merit or promise.

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5).)

§ 185.35 Criteria for assistance (areawide plans).

(a) *Statistical criteria*. In approving applications for assistance pursuant to § 185.31(b), the Assistant Secretary shall apply the following statistical criteria (60 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in all schools of the local educational agencies in the affected Standard Metropolitan Statistical Area for the fiscal year or years for which assistance is sought (30 points); and

(2) The net reduction in minority group isolation, in terms of the number of children affected, to be accomplished by the areawide plan to be developed pursuant to § 185.31(b) (30 points). The term "net reduction in minority group isolation," for purposes of this subparagraph, means the weighted number of minority group children currently enrolled in minority group isolated schools in the Standard Metropolitan Statistical Area whose degree of isolation will be eliminated or reduced as a result of the plan to be developed.

(20 U.S.C. 1608(a)(2), 1609(c)(1).)

(b) *Educational and programmatic criteria*. The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(b) on the basis of the following criteria (30 points):

(1) *Statement of objectives (6 points)*. (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified; and (ii) the degree to which (a) the program, project, or activity to be assisted promises realistically to result in the development and implementation of a plan as described in § 185.31(b), and (b) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(2) *Activities (19 points)*—(i) *Project design (10 points)*. The extent to which the application includes (a) plans for a comprehensive demographic study of the affected Standard Metropolitan Statistical Area, including projections of housing patterns; (b) provisions for participation of the appropriate housing authorities, zoning boards, regional planning organizations, and other such governmental and quasi-governmental agencies; (c) opportunities for students in the affected area to contribute to the development of the proposed plan; (d) provisions for improvement of educational services offered by local educational agencies affected by the proposed plan; and (e) a specific timetable for completion of various elements of the plan to be developed;

(ii) *Staffing (2 points)*. The extent to which the application (a) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (b) provides for participation by both minority and nonminority group staff members; and

(iii) *Parent and community involvement (7 points)*. The extent to which the application (a) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37 and (b) includes evidence that such participation has been encouraged and has in fact occurred.

(3) *Resource management (2 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the proposed program, project, or activity will be coordinated with related existing efforts; and (iii) existing facilities will be

utilized after implementation of the plan to be developed.

(4) *Evaluation (5 points).* The extent to which the application sets out a format for measurement of success in attaining specific objectives and subobjectives.

(5) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded for assistance pursuant to § 185.31(b), the Assistant Secretary shall apply the criteria set forth in § 185.34(c).

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5))

§ 185.36 Criteria for assistance (education parks).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(c), the Assistant Secretary shall apply the following statistical criteria (65 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group secondary students enrolled in the schools of the applicant(s) for the fiscal year or years for which assistance is sought (30 points), and

(2) The estimated number and percentage of minority group secondary students currently enrolled in minority group isolated secondary schools of the applicant(s) who will be incorporated into the proposed education park (35 points).

(20 U.S.C. 1601(b), 1609(c)(1).)

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(c) on the basis of the following criteria (35 points):

(1) *Needs assessment (6 points).* The extent to which the application (i) provides for participation of parents, secondary students, and other members of the affected community in the identification of needs related to secondary education and the elimination, reduction, or prevention of minority group isolation; (ii) describes a variety of methods and instruments to be used for collection and evaluation of relevant and substantive data regarding such needs; and (iii) contains evidence that the assessment of needs to be carried out in connection with the proposed program, project, or activity will be coordinated with other planning activities conducted by the applicant(s).

(2) *Statement of objectives (5 points).* (i) The degree to which the application sets out specific measurable objectives for the proposed program, project, or activity, in relation to the needs identified; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(3) *Activities (17 points)*—(i) *Project design (6 points).* The extent to which the application (*a*) describes a logical sequence of steps to be completed at specified intervals; (*b*) contains convincing evidence that the proposed education park will increase the educational options available to secondary school students; (*c*) provides for the participation of secondary students and teachers in designing the physical and educational aspects of the proposed education park; (*d*) proposes a logical combination of small educational units and centralized administration within the proposed education park; and (*e*) contains convincing evidence that the proposed education park will be constructed in an area which is equally accessible and convenient to minority and nonminority group secondary students;

(ii) *Staffing (4 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of vides for participation by both minority and nonminority group staff members; and

(iii) *Parent and community involvement (7 points).* The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (2 points).* The extent to which the application contains (i) evidence that the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) evidence that the proposed program, project, or activity will be coordinated with existing efforts; and (iii) a description of how existing secondary school facilities will be utilized after establishment of the proposed education park.

(5) *Evaluation (5 points).* The extent to which the application sets out a format for measurement of success in attaining specific objectives and subobjectives.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded to applicants for assistance pursuant to § 185.31(c), the Assistant Secretary shall apply the criteria set forth in § 185.34(c). No more than one award shall be made pursuant to § 185.31(c) to local educational agencies making individual applications until at least one such award has been made to local educational agencies applying jointly, and the number of such awards to such agencies making individual applications shall not exceed the number of such awards to such agencies applying jointly, unless the joint applications pending before the Assistant Secretary do not meet the requirements of the Act or this subpart, or set forth programs, projects, or activities of such insufficient promise for achieving the purposes of the Act that their approval is not warranted.

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5); Senate Rept. No. 92-6[illegible], p. 1[illegible])

§ 185.37 Advisory committees.

(a) *Interdistrict transfers.* (1) Applicants for assistance under § 185.31(a) shall comply with the requirements of § 185.41 as to advisory committee participation and public hearings. For purposes of this paragraph, references in § 185.41 to "the community" or "communities to be served" shall be understood to refer to the areas in both the school district served by the applicant and that served by the cooperating local educational agency.

(2) For purposes of this paragraph, the reference in § 185.41(h) to a "school which will be affected by any program, project, or activity assisted under the Act" shall be understood to refer to the integrated schools established pursuant to § 185.31(a).

(3) Student advisory committees established pursuant to this paragraph, in addition to meeting the requirements of § 185.41(h), shall consist of equal numbers of students regularly enrolled in such schools and of students enrolled in such schools by virtue of the interdistrict transfers assisted under § 185.31(a).

(20 U.S.C. 1609(a)(2) and (3), 1609(b).)

(b) *Area-wide plans and education parks.* (1) Applications for assistance under §§ 185.31 (b) and (c) shall comply with the requirements of §§ 185.41(a) through (g) as to advisory committee participation and public hearings. For purposes of this paragraph, the references in § 185.41 to "the community" or "communities to be served" shall be understood to refer to the entire area to be affected by the plan to be developed under § 185.31(b) or the education park proposed pursuant to § 185.31(c). Where the affected Standard Metropolitan Statistical Area includes members of minority groups in insubstantial proportions, applicants for assistance under §§ 185.31 (b) and (c) may establish a committee pursuant to this paragraph which includes equal numbers of nonminority group members and of members from each minority group substantially represented in the community, and an equal number of members, taken together, from other minority groups represented in the community.

(2) Only one advisory committee shall be established pursuant to this paragraph, regardless of the number of local educational agencies joining in the application for assistance.

(3) Applicant agencies shall designate teachers to serve as members of such committee in accordance with § 185.41 (c)(2), except that committees established pursuant to this paragraph shall not be required to include more than 6 teacher members.

(4) Student members of such committee selected in accordance with § 185.41 (c)(4) shall include at least one student enrolled in the schools of each applicant agency (and, in the case of an application for assistance under § 185.31 (b), of each local educational agency approving such application), except that committees established pursuant to this paragraph shall not be required to include more than 6 student members.

§ 185.38 Limitations on eligibility.

(20 U.S.C. 1609(a)(2) and (3), 1609(b).)

The limitations on eligibility set forth in § 185.43, the provisions of § 185.44 as to waiver of ineligibility, and the provisions of § 185.45 as to termination of assistance shall apply to all applicants or recipients of assistance under this subpart.

(20 U.S.C. 1605(d), 1608, 1609(a) and (b).)

§§ 185.39–185.40 [Reserved]

Subpart F—Bilingual Projects

§ 185.51 Eligibility for assistance.

(a) Any local educational agency which is implementing a plan described in § 185.11 (a) or (b) may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(b)(2), (1) to develop educational programs designed (i) to meet the educational needs of minority group children who are from environments in which a dominant language is other than English for the development of reading, writing, and speaking skills in the English language and their primary language, and (ii) to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members; or (2) to carry out activities authorized by § 185.12 to implement the educational programs described in this paragraph (whether or not developed with assistance made available under this subpart).

(20 U.S.C. 1607(c)(1)(B) and (C))

(b) Any nonprofit private agency, institution, or organization may apply for assistance, by grant or contract, under this subpart to develop the educational programs described in paragraph (a) of this section: *Provided however,* That such development is requested by one or more local educational agencies which are implementing a plan described in § 185.11 (a) or (b).

(20 U.S.C. 1607(c)(1)(A))

(c) For purposes of determining eligibility for assistance under this subpart, the Assistant Secretary may determine that members of any specific ethnic group with limited English-speaking ability constitute a "minority group," as that term is used in this subpart and in § 185.11, upon a finding that such group has been denied equal educational opportunity because of language barriers and cultural differences. Applications for assistance under this subpart relating to local educational agencies which are implementing plans described in § 185.11 (a) or (b) with respect to Negroes, American Indians, Spanish-surnamed Americans, Portuguese, Orientals, Alaskan natives, or Hawaiian natives shall be considered only on the basis of such plans. No plan affecting a minority group other than those named in the preceding sentence shall be deemed to qualify an applicant for assistance under this subpart if it results in any increase in minority group isolation for any member of any minority group named in the preceding sentence.

(20 U.S.C. 1619(9)(A))

§ 185.52 Authorized activities.

(a) Funds made available under this subpart shall be used for the activities described in § 185.51, where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01.

(20 U.S.C. 1607(c)(1))

(b) All applications for assistance under this subpart shall contain a plan for implementation of any educational program developed or proposed to be developed, whether or not assistance is sought for such implementation. No more than 25 per centum of the funds made available under this subpart shall be awarded for development activities pursuant to § 185.51(a)(1).

(20 U.S.C. 1607(c)(1))

(c) All applications for assistance under this subpart shall contain a plan for in-service training of teachers and other ancillary educational personnel in skills related to implementation of the educational programs described in § 185.51(a), including cultural awareness, oral or written language skills in a language other than English, and diagnostic evaluation and prescriptive teaching techniques.

(20 U.S.C. 1607(c)(1); Senate Rept. No. 92-61, p. 23)

(d) All programs, projects, or activities assisted under this subpart shall be specifically designed to complement any programs, projects, or activities assisted under subparts B and C of this part, or under title I or title VII of the Elementary and Secondary Education Act of 1965 or other programs of Federal financial assistance related to the purposes of this subpart.

(20 U.S.C. 1607(c)(3))

(e) Educational programs to be developed and implemented pursuant to §§ 185.51 (a)(1)(i) and (a)(2) shall provide for the participation of nonminority group children as well as those from minority groups, unless the applicant conclusively demonstrates that such participation will not contribute to the success of the proposed program, project, or activity. Educational programs to be developed and implemented pursuant to §§ 185.51 (a)(1)(ii) and (a)(2) shall provide for such participation. All applications for assistance under this subpart shall include activities with respect to the educational programs described in both §§ 185.51(a)(1) (i) and (ii).

(20 U.S.C. 1607(c)(1))

(f) The limitations on authorized activities set forth in §§ 185.12 (b), (c), and (d) shall apply to activities assisted under this subpart.

(20 U.S.C. 1601(b), 1606(a), 1607(c)(1))

§ 185.53 Applications.

(a) Application by local educational agencies for assistance under this subpart shall comply with the requirements of §§ 185.13 (a) through (n). Such applications, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary.

(20 U.S.C. 1607(c)(1), 1609(a))

(b) Applications by nonprofit private agencies, institutions, or organizations shall comply with the requirements of §§ 185.63 (a), (b)(2), (b)(4), (b)(5), (b)(6), and (b)(7).

(20 U.S.C. 1607(c)(1))

(c) In addition to the assurances and information required by paragraph (a) or paragraph (b) of this section, applications for assistance under this subpart shall contain the following information:

(1) A description of the proposed program, project, or activity, and of such policies and procedures as will assure that the applicant will use funds received under the Act only for the activities described in § 185.52;

(2) In the case of nonprofit private applicants, evidence that the proposed activity has been requested by one or more local educational agencies which are implementing a plan described in § 185.1° (a) or (b). Such evidence may include (i) a copy of a school board resolution or other final official action requesting the assistance of the applicant, or (ii) a letter from the school board chairman or superintendent of a local educational agency requesting such assistance. No application by a nonprofit private applicant shall be approved less than 10 days after a copy of said application has been submitted by the Assistant Secretary to the appropriate State educational agency for comment, unless the Assistant Secretary has received comments from such agency upon such application prior to expiration of the 10-day period.

(3) Information as to (i) the number and percentage of minority group children in the affected school district from environments in which a dominant language is other than English who receive

instruction of any kind (prior to the application for assistance under this subpart) in such language, the average number of hours per day such instruction is provided, and the educational goals of such instruction; (ii) the extent to which minority group children are separated from nonminority group children by or within classes for any part of the day (a) for the provision of instructional or other services to such minority group children or (b) for purposes of ability grouping or homogeneous instruction, and the educational justification for such separation (including the information required by §§ 185.43(c) (1) through (4)); (iii) the extent to which materials utilized for reading instruction are varied (by primary language, subject matter, or intended level of instruction) as between the various schools in the affected school district, or between the various classrooms within such schools; and (iv) the amount of Federal funds, if any, applied for and received by the affected local educational agency for the current academic year under titles I, II, III, and VII of the Elementary and Secondary Education Act of 1965 and the Education Professions Development Act. The application shall specify the minority group of which such children are members.

(20 U.S.C. 1607(c) (1) and (3))

§ 185.54 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance under this subpart, the Assistant Secretary shall apply the following objective criteria (60 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of such agency for the fiscal year or years for which assistance is sought who are from environments in which a dominant language is other than English (30 points); and

(2) The effective net reduction in minority group isolation, as defined in § 185.14(a)(2), in terms of the number and percentage of children affected, in all the schools operated by such agency accomplished or to be accomplished by the implementation of a plan described in § 185.11 (a) or (b) (30 points).

(20 U.S.C. 1607(c)(1))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance under this subpart on the basis of the following criteria (55 points):

(1) *Needs assessment (10 points).* (i) The severity of needs assessed by the applicant in relation to the inequality of educational opportunity available to minority group children who are from environments in which a dominant language is other than English, and (ii) the degree to which the applicant has demonstrated, by standardized achievement test data and other objective evidence, the existence of such needs.

(2) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified, and (ii) the degree to which (a) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (b) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(3) *Activities (28 points)*—(i) *Project design (12 points).* The extent to which (a) the proposed program, project, or activity provides for development and implementation of the educational programs described in § 185.51(a) in an imaginative and sensitive manner; (b) the proposed services are concentrated upon a group of participants which is sufficiently limited and specific to give promise of measurable growth for each participant; (c) such services are sufficiently intensive to give promise of such growth; (d) the proposed program, project, or activity emphasizes individualized instruction and services; (e) the application includes innovative plans to meet the goals of the Act which extend instruction in language skills to other areas of the curriculum in an integrated setting, and which include nonminority group children in activities other than those relating to the educational programs described in § 185.51(a)(1)(ii); (f) the applicant proposes to extend bilingual/bicultural instructional techniques to academic areas other than those with respect to which assistance is made available; (g) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity; and (h) the proposed program, project, or activity makes use of existing bilingual/bicultural research and instructional materials;

(ii) *Staffing (10 points).* The extent to which the application (a) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities; (b) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity; and (c) proposes to utilize credentialed bilingual teachers and to provide career development opportunities for paraprofessional staff members with bilingual capabilities;

(iii) *Delivery of services (2 points).* The extent to which the proposed program or project sets out a plan for meeting the logistical requirements of the proposed activities, including a description of adequate and conveniently available facilities and equipment; and

(iv) *Parent and community involvement (4 points).* The extent to which the application (a) delineates specific opportunities for community and program or project committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.55, and (b) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (5 points).* The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity; and (iv) the proposed program, project, or activity has been coordinated with existing programs and resources.

(5) *Evaluation (6 points).* The extent to which the application sets out a format of objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; (iii) an assessment of the validity of such instruments when used to evaluate the language skills, academic aptitude, or general intelligence of children whose primary language is other than English; and (iv) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1607(c)(1), 1607(c)(2)(A)(ii)(II), 1607(c)(3), 1609(a)(11).)

(c) *Funding criteria.* (1) In determining amounts to be awarded to applicants for assistance under this subpart, the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance under this subpart and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth a program, project, or activity of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section until the sums available for the purposes of this subpart have been exhausted.

(2) No more than 30 per centum of the funds available for grants or contracts pursuant to this subpart in any fiscal year shall be awarded to applicants proposing to carry out programs, projects, or activities with respect to local educational agencies in any one State, unless the Assistant Secretary determines that the applications pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(20 U.S.C. 1607(c)(1))

§ 185.55 Program or project committees.

(a) *Local educational agencies*—(1) *Consultation; public hearing; publication*. Local educational agencies applying for assistance under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a), (b), (e), and (f). For purposes of this subparagraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the program or project committee required by this paragraph.

(2) *Composition of committee*. (i) In order to establish a program or project committee as required by this paragraph, a local educational agency shall designate at least five civic or community organizations, each of which shall select a member of the committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served by the proposed program, project, or activity.

(ii) Such agency shall, after consultation with the appropriate teachers' organization(s), either (*a*) designate two classroom teachers, one of whom is a member of the minority group whose educational needs the proposed program, project, or activity is designed to meet, to serve as members of the committee required by this paragraph, or (*b*) delegate the responsibility for such selections to the appropriate teachers' organization(s).

(iii) Such agency shall designate two administrators or school board members, one of whom is a member of a minority group as described in subdivision (ii) of this subparagraph, to serve as members of the committee required by this paragraph.

(iv) At least 50 per centum of the members of a committee formed under this subparagraph must be members of a minority group as described in subdivision (ii) of this subparagraph. At least 50 per centum of the members of the committee shall be parents of children directly affected by a plan described in § 185.11 (a) or (b), or a program, project, or activity assisted under this subpart. In addition to members appointed pursuant to paragraph (a)(2) (i), (ii), and (iii) of this section, and taking into account the students to be appointed pursuant to paragraphs (a)(2)(v) of this section, such agency shall select the minimum number of additional persons as may be necessary to meet the requirements of this subdivision.

(v) Committee members appointed pursuant to paragraphs (a)(2) (i), (ii), (iii), and (iv) of this section shall select at least two secondary students, half of whom are members of a minority group as described in paragraph (a)(2)(ii) of this section, to serve as members of the committee required by this paragraph. Such students shall be regularly enrolled in a secondary school or schools operated by the local educational agency.

(3) *Approval by committee*. No application by a local educational agency for assistance under this subpart shall be approved which is not accompanied by the written comments of a committee formed in accordance with paragraph (a)(2) of this section, indicating that a majority of the members of such committee have approved the program, project, or activity set forth in such application.

(4) *Comments and suggestions by committee*. No amendment to the program, project, or activity of a local educational agency assisted under this subpart shall be approved, and no additional funds made available under this subpart, unless the members of a committee formed in accordance with paragraph (a)(2) of this section have been involved in the development of, and a majority of such members has approved, such amendment of or addition to the program, project, or activity. Comments indicating such approval shall be included with any application submitted by such agency for such amendments or additions. Amendments or additions suggested by the committee required by this paragraph shall be forwarded by the local educational agency, with or without comment by such agency, to the Assistant Secretary for his consideration.

(5) *Student advisory committees*. The local educational agency shall comply with the requirements of § 185.41(h) as to student advisory committees, except that at least 50 per centum of the members of each such committee shall be members of a minority group as described in subparagraph (2)(ii) of this paragraph: *Provided, however*, That if such agency is receiving assistance under subpart B, C, or D as of the date specified in § 185.41(h)(1), and if members of such a minority group have been selected as members of such committees at the appropriate secondary schools, such committees shall be deemed to comply with the requirements of this subparagraph.

(20 U.S.C. 1607(c)(2)(A)(i), 1607(c)(2)(B))

(b) *Nonprofit private applicants*—(1) *Consultation; publication*. Nonprofit private agencies, institutions, or organizations applying for assistance under this subpart shall comply with the requirements of §§ 185.65 (a), (d), and (e). For purposes of this subparagraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the program or project board required by this paragraph. Applications submitted by nonprofit private applicants shall describe in detail how such program or project boards will exercise policymaking authority with respect to the proposed program, project, or activity.

(2) *Composition of board*. (i) In order to establish a program or project board as required by this paragraph, the applicant shall designate at least 5 civic or community organizations, each of which shall select a member of the board. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served.

(ii) The applicant shall invite the appropriate local educational agency to designate as members of the board described in this subparagraph a classroom teacher and an administrator or school board member, one of whom is a member of a minority group as described in paragraph (a)(2)(ii) of this section.

(iii) At least 50 per centum of the members of the board formed under this subparagraph must be members of a minority group as described in paragraph (a)(2)(ii) of this section. Such board shall have at least 10 members. At least 50 per centum of the members of such board shall be parents of children directly affected by a plan described in § 185.11 (a) or (b), or a program, project, or activity assisted under this subpart. In addition to members appointed pursuant to paragraphs (b)(2) (i) and (ii) of this section, and taking into account the students to be appointed pursuant to paragraph (b)(2)(iv) of this section, the applicant shall select the minimum number of additional persons as may be necessary to meet the requirements of this subdivision.

(iv) Board members appointed pursuant to paragraphs (b)(2) (i), (ii), and (iii) of this section shall select at least two secondary school students, half of whom are members of a minority group as described in paragraph (a)(2)(ii) of this section, to serve as members of the board required by this paragraph. Such students shall be regularly enrolled in a secondary school or schools operated by the appropriate local educational agency.

(3) *Approval by board*. No application for assistance under this subpart shall be approved which is not accompanied by the written comments of a board formed in accordance with paragraph (b) (2) of this section, indicating that a majority of the members of such board have approved the program, project, or activity set forth in such application.

(4) *Comments and suggestions by board*. No amendment to a program, project, or activity assisted under this subpart shall be approved, and no additional funds made available under this subpart, unless the members of such board have

are involved in the development of, and a majority of such members has approved such amendment of or addition to such program, project, or activity. Comments indicating such approval shall be included with any application submitted by such applicant for such amendments or additions. Amendments or additions suggested by the board required by this paragraph shall be forwarded by the applicant, with or without comment, to the Assistant Secretary for his consideration.

(20 U.S.C. 1607(c)(2)(A)(ii)(I), 1607(c)(2)(B))

(c) *Provision of information.* To the extent possible, applicants for assistance under this subpart shall cause the publications required by this section, and the materials required to be furnished to the committees or boards established pursuant to this section, to be made available both in the English language and in the dominant language of the appropriate minority group as described in paragraph (a)(2)(ii) of this section.

(20 U.S.C. 1607(c)(2))

§ 185.56 Limitations on eligibility; nonpublic participation.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart. The provisions of § 185.42 as to participation of children or staff enrolled in or employed by nonpublic schools shall apply to local educational agencies applying for assistance under this subpart.

(20 U.S.C. 1605(d), 1607(c)(1), 1609 (a) and (b), 1611(c))

§§ 185.57–185.60 [Reserved]

Subpart H—Educational Television

§ 185.71 Eligibility for assistance.

(a) Any public or nonprofit private agency, institution, or organization with the capability of providing expertise in the development of television programing may apply for assistance, by grant, from funds reserved pursuant to § 185.95 (b)(3) to pay the cost of development and production of integrated children's television programs of cognitive and affective educational value. For purposes of this subpart, "programs of cognitive and affective educational value" are those which teach concrete academic skills and encourage interracial and interethnic understanding.

(20 U.S.C. 1610 (a), (b)(1); Senate Rept No. 92-61, p. 24)

(b) No more than five grants shall be awarded pursuant to this subpart during the fiscal year ending June 30, 1973.

(20 U.S.C. 1610(b)(1))

§ 185.72 Authorized activities.

(a) Funds made available under this subpart shall be used to pay the normal and necessary expenses of researching, planning, writing, editing, staging, directing, performing, producing, reproducing, and distributing integrated children's television programs, where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such programs shall be either a standard-length series addressing an area of concern described in paragraph (a)(1), (2), or (3) of this section, or 1-minute "spots" addressing any of the following areas of concern:

(1) Bilingual/bicultural approaches to assisting minority group children from environments in which a dominant language is other than English in the development of reading, writing, and speaking skills (in both the English language and the language of their parents or grandparents), and to instilling in both minority and nonminority group children an understanding and appreciation of each other's history and cultural background;

(2) Supplemental or introductory instruction in basic reading and mathematics skills and concepts, art and music, and basic science concepts;

(3) Instruction in family life-related academic skills directed particularly at secondary school age children;

(4) Dropout counseling and other approaches to the problems of dropouts;

(5) Encouraging and enriching the understanding and appreciation of school age children for the art, music, literature, and other cultural attainments of their own and other racial or ethnic groups;

(6) Reduction of interracial or interethnic tension and conflict.

(20 U.S.C. 1610(b)(1))

(b)(1) No more than one grant for a standard-length series shall be awarded for any one of the areas of concern described in paragraphs (a)(1), (2), and (3) of this section in any fiscal year, and no more than two grants shall be awarded for 1-minute "spots" as described in paragraph (a) of this section in any fiscal year, unless the Assistant Secretary determines that the applications pending before him for additional grants for programing directed to the of exceptional merit or promise.

(2) No more than one grant shall be awarded for television programing directed to a particular racial or ethnic group in a particular geographical area in any fiscal year, unless the Assistant Secretary determines that the applications pending before him for additional grants for programing directed to the same group in the same area are of exceptional merit or promise.

(20 U.S.C. 1610(b)(1))

(c) Television programs developed in whole or in part with assistance made available under this subpart shall be made reasonably available for transmission, free of charge, and [illegible] transmitted under commercial sponsorship. An application for assistance under this subpart shall include an assurance that the procedures to be followed, and the standards or criteria to be applied in making such programs freely available for transmission will be developed in conjunction with the Assistant Secretary upon completion of production of a designated portion of the proposed television programing. For purposes of this paragraph, where the costs of transmission are met by a commercial firm, a brief statement to that effect at the beginning or end of such transmission shall not be considered commercial sponsorship. No television program developed in whole or in part with assistance made available under this subpart shall be used or transmitted in such a manner as to result in a financial benefit to any person or organization.

(20 U.S.C. 1610(b)(2), Senate Rept. No. 92-61, pp. 24-25)

(d) Funds made available under this subpart shall not be used for construction, repair, or remodeling of any building or facility, or for the purchase of any equipment which has an extended useful life and is not consumed in use.

(20 U.S.C. 1610(b)(1))

§ 185.73 Applications.

(a) *General.* An applicant for assistance under this subpart for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year, which application shall contain such information and set forth such policies and procedures as will assure that the applicant will use funds received under this subpart only for the activities described in § 185.72.

(20 U.S.C. 1610(b)(1))

(b) *Basic assurances.* Applications for assistance under this subpart shall comply with the requirements of § 185.13 (a), (b), (c), (d), (f), [illegible] (1) (i) and (ii), (k)(2), and [illegible]

(20 U.S.C. 1609(a), 1610(b)(1))

(c) *Assurances by local educational agencies.* Applications by local educational agencies for assistance under this subpart shall comply with the requirements of § 185.13 (g), (i), (j), (k)(1)(iii), (k)(3), and (l), in addition to the requirements specified in paragraph (b) and (e) of this section. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary.

(20 U.S.C. 1609(a), 1610(b)(1))

(d) *Assurances by other applicants.* Applications by public or nonprofit private agencies, institutions, or organizations (other than local educational agencies) under this subpart shall comply with the requirements of §§ 185.63(b)(2), (5), and, where appropriate, [illegible](b)(5), in addition to the requirements specified in paragraphs (b) and (e) of this section.

(20 U.S.C. 1610(b)(1))

(e) *Additional information and assurances.* Applications for assistance under this subpart shall contain the following information, in addition to the assurances and information required by the applicable paragraphs of this section:

(1) A detailed description of the integrated children's television programs to be developed and produced with assistance made available under this subpart, together with an identification of the audience to be reached by such programs and a statement of the educational and other gains to be achieved;

(2) A statement of the name, address, position, duties, prior experience in educational television and school and community affairs, race, and (in the case of applications related to an activity described in § 185.72(a)(1)) the bilingual/bicultural background of all persons permanently employed (or to be employed) in positions of responsibility by the applicant on its development, production, and administrative staffs;

(3) A detailed description of the formative evaluation procedures to be employed by the applicant in measuring and evaluating the educational and other change to be achieved by children viewing the television programs for which assistance is sought;

(4) A statement of past activities engaged in by the applicant or its officers or employees indicating the relative capability of the applicant to provide expertise in the development of integrated children's television programing, and to develop and produce the proposed television programs; and

(5) Information as to the research and development techniques to be employed (or which have previously been employed), production standards to be observed, nonbroadcast materials to be utilized in support of the proposed television programing, and field activities and other measures to be undertaken in order to insure target audience participation in ongoing program development.

(20 U.S.C. 1610(b) (1) and (3))

(f) *Application procedure.* The Assistant Secretary may require the information described in this section to be submitted either in a single application or sequentially, and may require additional information and assurances of selected applicants.

(20 U.S.C. 1610(b)(1))

§ 185.71 Criteria for assistance.

In approving applications for assistance under this subpart, the Assistant Secretary shall apply the following criteria:

(a) *Needs assessment (10 points).* (1) The extent to which the applicant has undertaken a comprehensive assessment, on the basis of test data, audience surveys, and other objective evidence, of the educational and other needs of the target population, and the magnitude of the needs so assessed; (2) the extent to which the applicant has undertaken a reasonable numerical estimate of the expected or potential target audience; and (3) the size of the potential audience so estimated.

(20 U.S.C. 1610(b)(1))

(b) *Statement of objectives (13 points).* (1) The degree to which the application (1) sets forth specific, measurable objectives in relation to the needs identified, and (2) specifically describes, on the basis of modern research and development techniques, the issues and subject matter related to such needs which will be addressed by the proposed television programing.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(B))

(c) *Activities (35–37 points)*.—(1) *Program content and design (10 points)*. The extent to which the proposed television programing promises to reach the expected or potential target audience and to encourage and sustain the participation, interest, and educational and other growth of such audience, by use of minority and nonminority group performers or characters and by other means;

(2) *Staffing (12 points).* (i) The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed television programing; and (ii) the extent to which minority group personnel are employed (or will be employed) in responsible positions on the development, production, and administrative staffs of the applicant;

(3) *Facilities capability (10 points).* The extent to which the application describes a level of production facilities capability sufficient to meet the requirements of the proposed television programing, including a description of adequate and conveniently available production facilities and equipment;

(4) *Supplementary materials (2 points).* In the case of applications for standard-length series, the extent to which such application sets forth a plan of activities, such as the creation, production, and dissemination of nonbroadcast materials, designed to intensify and amplify the effects of the proposed programing; and

(5) *Parent and community involvement (3 points).* The extent to which the application (i) delineates specific opportunities for continuing community and advisory committee participation in the development and evaluation of the proposed television programing in addition to those required by § 185.75, and (ii) includes evidence that such participation has been encouraged and has in fact occurred.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(A))

(d) *Resource management (6 points).* The extent to which the application contains evidence that (1) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (2) the costs of project components are reasonable in relation to the expected benefits; and (3) needed resources will be purchased or otherwise obtained in such a manner as to insure that project deadlines will be met.

(20 U.S.C. 1610(b)([illegible]))

(e) *Evaluation (5 points).* The extent to which the application sets out a detailed format, including specific study designs, for applying formative evaluation techniques prior to and during the initial phases of production of the proposed television programing, in order to determine the production and presentation techniques which offer the greatest promise of achieving the stated objectives.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(C))

(f) *Funding criteria.*—In determining amounts to be awarded to applicants for assistance under this subpart, the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively developing and producing its proposed television programing, in relation to the amount of funds available for assistance under this subpart and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth proposed television programing of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section until the sums available for the purposes of this subpart have been exhausted.

(20 U.S.C. 1610(b)(1))

(g) In making the determinations required under this section, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, educational television, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1610(b) (1) and (3))

§ 185.73 Advisory committees.

(a) Public or nonprofit private agencies, institutions, or organizations (other than local educational agencies) applying for assistance under this subpart shall comply with the requirements as to advisory committee participation set forth in § 185.65, except for the second sentence of § 185.65(b)(2). For purposes of this paragraph, references in said section to a "plan or project described in § 185.11" or "program, project, or activity" shall be understood to refer to the proposed television programing for which assistance is sought.

(b) Local educational agencies applying for assistance under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a) through (g). For purposes of this paragraph, references in said paragraphs to a "plan or project described in § 185.11" or "program, project, or activity" shall be understood to refer to the proposed television programing for which assistance is sought.

(20 U.S.C. 1609(a) (2) and (3), 1609(b))

(c) Where the primary area to be served by the proposed television programing for which assistance is sought under this subpart is larger than the school district of a single local educational agency, members of the advisory committees required by this section, and civic or community organizations designated to select such members, shall be selected so as to represent the larger area to be served.

(20 U.S.C. 1610(b) (1))

§ 185.76 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this part. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart.

(20 U.S.C. 1606(d), 1609 (a) and (b), 1610(b) (1))

§§ 185.77–185.80 [Reserved]

Subpart I—Evaluation

§ 185.81 Eligibility for awards.

Any State educational agency, institution of higher education, or private agency, organization, or institution (including an advisory committee established by a local educational agency pursuant to § 185.37, § 185.41, § 185.55(a), § 185.75(b), or § 185.94) may submit a proposal for a contract, from funds reserved pursuant to § 185.95(b)(4), for the purpose of evaluating specific programs or projects assisted under this part.

(20 U.S.C. 1612)

§ 185.82 Authorized activities.

Funds awarded pursuant to this subpart shall be used to pay the normal and necessary expenses of planning, instrument development and administration, executing statistical designs (including randomization and controls), data collection and analysis, and reporting incident to evaluation of programs, projects, or activities assisted under this part, as well as overall management of such evaluations, where such expenses would not otherwise be funded.

(20 U.S.C. 1612)

§ 185.83 Applications.

(a) *Assurances and information.* Proposals submitted pursuant to this subpart shall comply with the requirements of §§ 185.13 (a), (b), (c), (f), and (m) and 185.63(b)(2). Such proposals shall contain such information, and set forth such policies and procedures, as will assure that the offeror will use funds received under this subpart only for the activities described in § 185.82. In addition, such proposals shall contain the following information:

(1) A detailed description of the objectives of the proposed evaluation, as they relate to the purposes set forth in § 185.01;

(2) A detailed description of the technical approach, management plan, statistical design (including appropriate randomization and controls), and techniques of data collection, analysis, and synthesis to be utilized or employed in the proposed evaluation;

(3) A statement of the name, position, race, and prior relevant experience of all persons permanently employed (or to be employed) in positions of responsibility by the offeror in connection with the proposed evaluation; and

(4) A statement of past activities engaged in by the offeror or its officers or employees indicating the relative capability of the offeror to conduct the proposed evaluation.

(20 U.S.C. 1612)

(b) *Procedures.* (1) Proposals under this subpart shall be submitted in response to requests for proposals. The Assistant Secretary may require the information described in this section to be submitted either in a single document or sequentially, and may require additional information and assurances of selected offerors.

(2) Contracts under this subpart shall be subject to the requirements of the Federal Procurement Regulations (41 CFR Ch. 1 and 3), to the extent that such regulations are not inconsistent with the provisions of this subpart.

(20 U.S.C. 1612)

§ 185.84 Criteria for awards.

(a) The Assistant Secretary shall determine the merits of proposals submitted under this subpart on the basis of the following criteria;

(1) *Statement of objectives.* The degree to which the offeror sets out specific objectives for the proposed evaluation, in relation to the purposes described in § 185.01, as demonstrated by background discussion and objective analysis included in its proposal;

(2) *Technical approach.* The extent to which the proposal sets out a technical approach which promises to achieve the stated objectives;

(3) *Management plan.* The extent to which the proposal sets out a plan for effective management of the proposed evaluation, including a specific timetable for completion of project components and specific staff assignments;

(4) *Data techniques.* The extent to which the proposal sets out effective techniques for collection, analysis, and synthesis of data in connection with the proposed evaluation;

(5) *Staff capabilities.* The extent to which the proposal demonstrates (i) the presence or availability of staff members with relevant technical and management experience, and (ii) past experience on the part of the offeror or its officers or employees in conducting evaluations similar to that for which funds are requested;

(6) *Resource management.* The extent to which the proposal contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) provisions have been made for maximum utilization of existing facilities and resources; and

(7) *Scope.* The extent to which the offeror proposes an evaluation of sufficient comprehensiveness to insure results of general applicability and reliability.

(8) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, evaluation, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1612)

(b) *Funding criteria.*—In determining amounts to be awarded under this subpart, the Assistant Secretary shall consider the additional cost to an offeror (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed evaluation, in relation to the amount of funds available for contracts under this subpart and the other applications pending before him. The Assistant Secretary shall not be required to approve any proposal which does not meet the requirements of the Act or this part, or which sets forth a proposed evaluation of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to offerors (whose proposals meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section with respect to each type of evaluation for which proposals are requested.

(20 U.S.C. 1612)

§ 185.85 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies submitting proposals under this subpart.

(20 U.S.C. 1605(d))

§§ 185.86–185.90 [Reserved]

Subpart J—Special Projects

§ 185.91 Eligibility for assistance.

(a) *Special reading projects.* (1) Any local educational agency which is implementing a plan described in § 185.11 (a) or (b) may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(b)(1), for special reading projects to improve the reading performance of minority and nonminority group children in a school affected by such a plan in which the proportion of minority group children enrolled is greater than 20 percent and no more than 50 percent.

(2) No more than $2,500,000 from funds reserved pursuant to § 185.95(b)(1) shall be awarded for grants or contracts pursuant to this paragraph during the fiscal year ending June 30, 1973.

(20 U.S.C. 1607(a))

(b) *Other projects.* The Assistant Secretary may assist, by grant or contract, any State or local educational agency or other public agency or organization (or a combination of such agencies and organizations), from funds reserved pursuant to § 185.95(b)(1) and not awarded or to be awarded pursuant to paragraph (a) of this section, for the purpose of conducting special programs or projects which the Assistant Secretary determines will make substantial progress toward achieving the purposes of the Act.

(20 U.S.C. 1607(a))

(c) *Definitions.* For purposes of this subpart, State or local educational agencies in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be State or local educational agencies within the meaning of §§ 185.02 (e) and (j).

(20 U.S.C. 1607(a), 1619 (8), (14), and (15))

(d) *Authorized activities.* (1) Assistance made available pursuant to paragraph (a) of this section shall be used for activities described in § 185.12 which would not otherwise be funded and are designed to carry out the purposes described in § 185.01 and in paragraph (a) of this section.

(2) Assistance made available pursuant to paragraph (b) of this section shall be used for activities described in or authorized by §§ 185.12, 185.22, 185.32, 185.52, 185.62, and 185.72 which would not otherwise be funded and which are designed to carry out the purposes described in § 185.01.

(3) The provisions of §§ 185.12 (b), (c), and (d) shall apply to assistance made available under this subpart.

(4) No activity assisted pursuant to paragraph (a) of this section shall be carried out with respect to a class which does not include both minority and nonminority group children. Students shall not be removed from their regularly assigned classrooms on a regular basis in order to participate in a program, project, or activity assisted pursuant to paragraph (a), but may be so removed on an occasional basis for special treatment or services.

(20 U.S.C. 1606, 1607(a))

(e) *Limitations on eligibility; nonpublic participation.* The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart. The provisions of § 185.42 as to participation of children or staff enrolled in or employed by nonpublic schools shall apply to local educational agencies applying for assistance under this subpart.

(20 U.S.C. 1605(d), 1607(a), 1609 (a) and (b), 1611(c))

§ 185.92 Applications.

(a) Applications by local educational agencies for assistance under this subpart shall comply with the requirements of §§ 185.13 (a) through (n). Applications by other public agencies or organizations shall be in such form, and contain such information and assurances, as may be required by the Assistant Secretary. All applications for assistance under this subpart, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary.

(20 U.S.C. 1607(a), 1609(a))

(b) In addition to the information and assurances required by paragraph (a) of this section, applications by local educational agencies pursuant to § 185.91(a) shall contain the following additional information:

(1) A description of the proposed program, project, or activity, and of such policies and procedures as will insure that the applicant will use funds received under the Act only for the activities described in § 185.91(d);

(2) A complete special reading needs assessment with regard to the affected school, in a form to be prescribed by the Assistant Secretary;

(3) The signature of the principal of the school to be served by the proposed program, project, or activity, indicating concurrence in the submission of such agency's application.

(20 U.S.C. 1607(a))

§ 185.93 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance by local educational agencies pursuant to § 185.91(a), the Assistant Secretary shall apply the following objective criteria (20 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of such agency for the fiscal year or years for which assistance is sought (10 points); and

(2) The effective net reduction in minority group isolation, as defined in § 185.14(a)(2), in terms of the number and percentage of children affected, in all the schools operated by such agency accomplished or to be accomplished by the implementation of a plan or project described in § 185.11 (a) or (b) (10 point).

(20 U.S.C. 1609(c) (1), (2), and (3))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance by local educational agencies pursuant to § 185.91(a) on the basis of the following criteria (105 points):

(1) *Needs assessment (20 points).* (i) The magnitude of needs assessed by the applicant in relation to reading achievement of students in the affected school, and (ii) the degree to which the applicant has demonstrated, by standardized achievement test data and other objective evidence, the existence of such needs. Such needs assessment shall be submitted in a form to be prescribed by the Assistant Secretary.

(2) *Statement of objectives (20 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served. At a minimum, the stated objectives shall include progress during the period of the proposed program, project, or activity toward the goal of a normal range and distribution of reading achievement in the affected school, such goal to be attained within a 3-year period.

(3) *Activities (40 points).*—(i) *Curriculum development (10 points).* The extent to which the application sets out specific procedures for the evaluation, development, and revision of the curriculum in the affected school, in relation to the needs identified;

(ii) *Staffing (20 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities; (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity, and (*c*) includes evidence that the project staff reflects the racial and ethnic makeup of the student body at the affected school; and

(iii) *Parent and community involvement (10 points).* The extent to which the application (*a*) delineates specific opportunities for community and parental participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.94 and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management* (5 points). The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity; and (iv) the proposed program, project, or activity has been coordinated with existing programs and resources.

(5) *Evaluation* (20 points). The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, or other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (2), (4), and (6))

(c) *Funding criteria*. In determining amounts to be awarded to applicants for assistance pursuant to § 185.91(a), the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance pursuant to § 185.91(a) and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth a program, project, or activity of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section until the sums allotted for such assistance have been exhausted. No more than 20 per centum of the funds made available pursuant to § 185.91(a) shall be awarded to applicants in any one State in any fiscal year, unless the Assistant Secretary determines that applications for such awards in excess of such amount are of exceptional merit or promise.

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5))

(d) *Other applications*. The merits of applications for assistance pursuant to § 185.91(b) shall be determined on the basis of the criteria set forth in § 185.14, to the extent that such criteria are applicable to the proposed program, project, or activity.

(20 U.S.C. 1607(a), 1609(c))

§ 185.94 Community involvement.

(a) *Unit task force*. Applications by local educational agencies for assistance pursuant to § 185.91(a) shall be developed by a unit task force headed by the principal of the school to be served by the proposed program, project, or activity and formed in accordance with paragraph (b) of this section.

(20 U.S.C. 1609(a)(2)(B), 1609(b))

(b) *Composition*. (1) In order to establish a unit task force as required by this section, a local educational agency shall designate two civic or community organizations broadly representative of the minority and nonminority communities to be served, each of which shall select a resident of the attendance area of the school to be served as a member of the unit task force.

(2) Such agency, after consultation with the appropriate teachers' organization(s), shall either (i) designate two teachers from the school to be served who will participate in the proposed program, project, or activity to serve as members of the unit task force, or (ii) delegate the responsibility for such selections to the appropriate teachers' organization(s).

(3) Such agency shall designate one member of its administrative staff, at the assistant superintendent level or higher, to serve as a member of the unit task force.

(4) Where the proposed program, project, or activity will affect a secondary school, the unit task force required by this section shall include at least two secondary students regularly enrolled at such school who have been selected by the student body or student government of such school.

(5) The local educational agency shall select the minimum number of additional members of such unit task force necessary to insure that (i) it will be composed of equal numbers of nonminority group members and of members from each minority group substantially represented in the school to be served, and (ii) at least half the members of such unit task force will be parents of students to be served by the proposed program, project, or activity.

(20 U.S.C. 1609(a)(2)(B))

(c) *Consultation; public hearing; publication*. Local educational agencies applying for assistance pursuant to § 185.91(a) shall comply with the requirements as to public hearings, publications, and post-award consultation set forth in §§ 185.41 (a), (b), (e), and (f). For purposes of this paragraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the unit task force required by this section.

(20 U.S.C. 1609(a) (2) and (3))

(d) *Comments and suggestions by unit task force*. No amendment to the program, project, or activity of a local educational agency shall be approved, and no additional funds made available pursuant to § 185.91(a), unless the unit task force required by this section has been involved in the development of, and a majority of its members has approved, such amendment of or addition to the program, project, or activity. Comments indicating such approval shall be included with any application submitted by such agency for such amendments or additions. Amendments or additions suggested by the unit task force shall be forwarded by the local educational agency, with or without comment by such agency, to the Assistant Secretary for his consideration.

(20 U.S.C. 1609(a)(3))

(e) *Other applicants*. Applicants for assistance pursuant to § 185.91(b) shall comply with the requirements of § 185.41, to the extent that such requirements are applicable to the proposed program, project, or activity.

(20 U.S.C. 1609(a) (2) and (3), 1609(b))

[FR Doc.73-7995 Filed 4-23-73;8:45 am]

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federal register

November 20, 1973—Pages 31947-32113

TUESDAY, NOVEMBER 20, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 223

Pages 31947-32113

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PART I

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marine mammals (37 FR 28177, December 21, 1972) and pursuant to the instructions for preparing applications for permits (38 FR 26622, September 24, 1973).

The Secretary considers the following applications sufficient under the provisions of § 216.15(a) of the regulations:

1. Sea Life, Incorporated, Makapuu Point, Waimanalo, Hawaii 96795. The applicant states that:

(a) They wish to capture and hold for public display the following:

Scientific name	Common name	No.
Stenella longirostris	Spinning dolphin	7
Steno bredanensis	Rough toothed dolphin	[illegible]
Tursiops gilli	Pacific bottlenose dolphin	8
Pseudorca [illegible]	False killer whale	8
Globicephala [illegible]	Pilot whale	8
[illegible]	Pygmy killer whale	4
Ziphius cavirostris	Cuvier's beaked whale	2
Grampus griseus	Risso's dolphin	2
Zalophus californianus	California sea lion	14
Phoca vitulina	Harbor seal	4
Hydrurga leptonyx	Leopard seal	2
Mirounga angustirostris	Elephant seal	2

(b) Location of Capture.

All cetacea will be captured near the Hawaiian Islands of Maui, Lanai, Molokai, and Oahu.

California sea lions, elephant seals, harbor seals, and leopard seals will be captured by contractors at unspecified locations. The contractors involved are experienced and competent.

(c) Time of taking will be as weather permits.

(d) After capture, the animals will be transported to Sea Life's facilities in Hawaii for training prior to use as active display elements of the Sea Life program. The animals captured under contract would be acclimatized to captivity prior to transport to Hawaii.

(e) Manner of Taking.

All cetaceans will be captured using a "hoop net."

2. Sea World, Incorporated, 1720 South Shores Road, San Diego, California. The applicant states that:

(a) They wish to capture, transport, and hold for public display five adult or sub-adult male northern elephant seals, *Mirounga angustirostris*.

(b) Location of capture would be offshore Mexican Islands in the Pacific Ocean off Baja California or offshore California islands.

(c) The tentative dates of capture will be between the date of permit and March 30, 1974.

(d) The manner of taking will be by beach hoop net or by direct herding of an animal into a transport enclosure.

(e) Animals will be transported to Sea World via the large commercial fishing boat *Louson*. The animals will be cared for by a veterinarian during capture, transport, and display.

(f) The animals will be acclimated at Sea World, San Diego, and then transported by airplane to the display facility at Sea World, Florida.

Documents submitted in connection with these applications are available as follows:

All documents will be available at the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and at the Regional Director's Office, National Marine Fisheries Service, Terminal Island, California.

Documents concerning Sea World's application will also be available at the Regional Director's Office, National Marine Fisheries Service, St. Petersburg, Florida.

Concurrent with publication of this notice in the FEDERAL REGISTER, the Director, National Marine Fisheries Service, is sending copies of the applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Pursuant to § 216.15 of the regulations governing the taking and importing of marine mammals, interested parties may submit written data or views on these applications on or before December 20, 1973. Comments should be sent to the Director, National Marine Fisheries, Washington, D.C. 20235.

JOSEPH W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

NOVEMBER 15, 1973.

[FR Doc.73-24674 Filed 11-19-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

DESEGREGATION OF PUBLIC EDUCATION

Notice of Acceptance of Applications

The Commissioner of Education hereby gives notice that pursuant to title IV of the Civil Rights Act of 1964 (78 Stat. 241, 20 U.S.C. 2000c–2000c-9) applications are being accepted from State educational agencies, institutions of higher education, and school districts for contracts or grants under sections 403, 404, and 405 of the Act for the purpose of technical assistance, training institutes, and employment of advisory specialists in connection with plans or programs for the desegregation of public elementary and secondary schools. Applications for General Assistance Centers under section 403 of the Act (45 CFR 180.21 of the implementing regulations) are not covered by this notice. Contracts for General Assistance Centers will be governed by the Federal Procurement Regulations, and a Notice of Request for Proposal will be published in the Commerce Business Daily.

Contracts are to be awarded under section 403 of the Act to State educational agencies for the purpose of rendering technical assistance to desegregating or desegregated school districts. Institutions of higher education may apply for grants under section 404 of the Act for the purpose of conducting institutes designed to improve the ability of public school personnel to deal effectively with educational problems incident to desegregation. Grants are also to be awarded under section 405 of the Act to school districts for the purpose of employing specialists to advise on problems incident to desegregation and (in certain limited instances) to conduct inservice training for public school personnel.

Applications for contracts or grant awards as described above must be received by the appropriate Regional Office of Education on or before December 26, 1973, unless such 35th day is a Saturday, Sunday, or Federal holiday, in which case applications must be received by the next following business day. Contract and grant awards will be announced on or about February 8, 1974.

An application sent by mail will be considered to be received on time by the appropriate regional office if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in the appropriate regional office. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

Funds will be available pursuant to this notice for authorized activities commencing no earlier than July 1, 1974, and terminating no later than June 30, 1975.

Awards under sections 403, 404, and 405 of the Act will be subject to the regulation in 45 CFR Part 180, as published in the FEDERAL REGISTER June 20, 1973 (38 FR 16065) as such part is or may be amended prior to the award of such assistance. Assistance under sections 404 and 405 of the Act will also be subject to the Office of Education General Provisions Regulations in 45 CFR Part 100, as published in the FEDERAL REGISTER November 6, 1973 (38 FR 30654) as such part is or may be amended prior to the award of assistance.

(Catalog of Federal Education Assistance Programs No. 13.405 Civil Rights Technical Assistance and Training.)

Dated November 15, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.73-24770 Filed 11-19-73;8:45 am]

EMERGENCY SCHOOL AID

Notice of Acceptance of Applications

The Commissioner of Education hereby gives notice that pursuant to title VII of Pub. L. 92-318, the Emergency School Aid Act, applications are being accepted from local educational agencies and other public and nonprofit private applicants for basic grants under section 706(a) of the Act, pilot projects under section 706(b) of the Act, projects to be carried out by public or nonprofit private applicants under section 708(b) of the Act, bilingual/bicultural projects under section 708(c) of the Act, educational television projects under section 711 of the Act, and special reading projects under section 708(a) of the Act.

Basic grants or contracts, pilot projects, and public or nonprofit private projects. Applications for assistance under sections 706(a), 706(b), and 708(b) of the Act must be received by the appropriate Regional Office of Education on or before December 20, 1973, unless such 35th day is a Saturday, Sunday, or Federal holiday in which case applications must be received by the next following business day. Grant or contract awards will be announced on or about March 15, 1974.

Bilingual/bicultural projects. Applications for assistance under section 708(c) of the Act must be received by the appropriate Regional Office of Education on or before the 35th day following publication of this notice in the FEDERAL REGISTER, unless such 35th day is a Saturday, Sunday, or Federal holiday, in which case applications must be received by the next following business day. Grant or contract awards will be announced on or about March 15, 1974.

Educational television projects. Applications for assistance under section 711 of the Act must be received on or before February 15, 1974. Announcement of grant awards will be made on or about April 6, 1974. Such applications should be submitted to U.S. Office of Education, Application Control Center, 7th & D Streets SW., ROB-3, Room 5673, Washington, D.C. 20202.

Special reading projects. Applications for special reading projects under section 708(a) of the Act must be received on or before February 15, 1974. Grant or contract awards will be announced on or about April 6, 1974. Such applications should be submitted to U.S. Office of Education, Application Control Center, 7th & D Streets SW., ROB-3, Room 5673, Washington, D.C. 20202.

Recipt procedure. An application sent by mail will be considered to be received on time by the regional office or the Application Control Center, as appropriate if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms, in the regional office, or in Washington, D.C., as appropriate. (In establishing the date of receipt, the Assistant Secretary will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

Project periods. Funds will be awarded on the above mentioned dates (except for educational television projects) for authorized activities commencing no earlier than July 1, 1974, and terminating no later than June 30, 1975.

Applicable regulations. Awards under sections 706(a), 706(b) and 708(b) will be subject to 45 CFR Part 185 as such part appeared in the FEDERAL REGISTER on February 6, 1973 (38 FR 3450). Awards under sections 708(c), 711, and 708(a) will be subject to the amendments to 45 CFR Part 185 as such amendments appeared in the FEDERAL REGISTER on April 24, 1973 (38 FR 10092). Awards under all sections of the Act shall be subject to such amendments to 45 CFR Part 185 as may be made in the future. Awards under all sections of the Act as described above are subject to the Office of Education General Provisions Regulations of 45 CFR Part 100 as published in the FEDERAL REGISTER November 6, 1973 (38 FR 30654).

(20 U.S.C. 1609(a))

(Catalog of Federal Education Assistance Programs Nos. 13.525 Emergency School Aid—Basic Grants, 13.526 Emergency School Aid—Pilot Projects, 13.528 Emergency School Aid—Bilingual Projects, 13.529—Emergency School Aid—Nonprofit Organizations, 13.530 Emergency School Aid—Educational Television, 13.532 Emergency School Aid—Special Projects)

Dated: November 15, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.73-24771 Filed 11-19-73;8:45 am]

EMERGENCY SCHOOL AID

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the National Advisory Council on Equality of Educational Opportunity will meet from 9 a.m. until 4 p.m. Thursday, December 13 and 9 a.m. until 4 p.m. Friday, December 14, in Room 406, U.S. Office of Education, 50 Fulton Street, San Francisco, California.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII). The Council is established to advise the Assistant Secretary for Education with respect to the operation of programs under the Act, and to review the operation of such programs.

The meeting of the Council shall be open to the public. The proposed agenda includes Subcommittee Reports, a review of the Site Visitation Evaluation Survey and a Legislative Report with recommendations.

Signed at Washington, D.C., on November 16, 1973.

HERMAN R. GOLDBERG,
Associate Commissioner, Bureau of Equal Educational Opportunity.

[FR Doc.73-24831 Filed 11-19-73;9:28 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 73 268N]

NEW YORK HARBOR VESSEL TRAFFIC SYSTEM ADVISORY COMMITTEE

Notice of Open Meeting

This is to give notice pursuant to Public Law 92-463, Sec. 10(a), approved October 6, 1972, that the New York Harbor Vessel Traffic System Advisory Committee will conduct an open meeting on Thursday, December 13, 1973, in the Auditorium of Building 108, Governors Island, New York beginning at 10:30 a.m.

Members of the Committee and their industry positions are:

Admiral John M. Will, USN (Ret.)
State of New York Board of Commissioners of Pilots
Captain H. C. Breitenfeld
United New York Sandy Hook Pilots' Benevolent Association
Captain W. H. Burrill
State of New Jersey Board of Commissioners of Pilots
Mr. Richard Dewling
U.S. Environmental Protection Agency
Captain L. T. Earl
United New Jersey Sandy Hook Pilots' Benevolent Association
Mr. A. Giallorenzi
American Institute of Merchant Shipping—Petroleum Industry Representative
Mr. Alfred Hammon
Port Authority of New York and New Jersey
Captain T. A. King
U.S. Department of Commerce, Maritime Administration
Commodore F. Lindner
Long Island Sound Commodores Association
Colonel H. W. Lombard, USA
Department of the Army, Corps of Engineers
Mr. Robert W. Sanders
New York Harbor Panel, Marine Towing and Transportation Industry
Captain R. D. Sante, USN
U.S. Navy, Military Sealift Command
Captain S. M. Seledoe
American Institute of Marine Underwriters
Captain J. G. Stillwaggon
Interport Pilots' Associates, Inc.
Captain K. C. Torrens
American Institute of Merchant Shipping

The agenda for the December 13, 1973 meeting consists of:

1. Report of the Executive Committee given by Captain K. C. Torrens, Chairman of the Executive Committee.

2. Report from the Long Island Sound Sub-Committee given by Captain D. M. Kerrede, Chairman of the Long Island Sound Sub-Committee.

3. Report from the Hudson River Sub-Committee given by Captain H. C. Breitenfeld, Chairman of the Hudson River Sub-Committee.

4. Report from the New York Vessel Traffic System Staff on:

a. The revised Implementation Schedule.
b. The R&D Radar Van Deployment.
c. The decision for the Vessel Traffic Center location.
d. The progress of the Communications Questionnaire.

5. Comments from the floor.

The New York Harbor Vessel Traffic System Advisory Committee was established by the Commander, Third Coast Guard District on April 1, 1973, to advise on the need for and development, instal-

federal register

FRIDAY, DECEMBER 7, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 235

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

EMERGENCY SCHOOL AID

Special Reading Projects and Educational Television

6-3014

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 185]

EMERGENCY SCHOOL AID

Proposed Amendments Concerning Special Reading Projects and Educational Television

Experience in the administration of the Emergency School Aid Act has suggested the need to make changes in the program regulations (1) to provide for the continuation of programs funded under subpart J, special reading projects, and (2) to avoid duplication of programming supported under subpart H, educational television.

Accomplishment of the goal of improving reading [illegible] an integrated environment [illegible] requires the utilization of educational resources and fiscal effort beyond the level of assistance made available through grant awards for special reading projects in fiscal year 1973. In order to provide adequate financial assistance to accomplish this goal, it is proposed to amend the eligibility provision for such projects so as to limit the award of funds in fiscal year 1974 to those districts which have substantially implemented special reading projects for which assistance was awarded under the Act prior to July 1, 1973.

The existing regulations for subpart H, relating to educational television, contain a list of "areas of concern" for which grantees might produce television programming. It is believed that assistance made available in fiscal year 1973 has satisfied the need reflected in those areas of concern. In order to avoid duplication of efforts in the use of fiscal year 1974 funds, it is proposed to amend the list of authorized activities to provide a new list of areas of concern.

In addition, a change is proposed to §§ 185.95 (b)(1) and (3) relating to reservation of funds in order to increase the amount of funds presently available for subpart H, educational television. The amount reserved for subpart J, special projects, is correspondingly reduced. This change would restore the reservations of funds for subpart H and subpart J to the levels which existed for fiscal year 1973 funding. Such reservations had been amended in August 1973 in anticipation of a need for an increase in the amount of special projects funding. Such need did not occur; therefore, it is proposed to restore the reservations to the original levels.

Part 185 of Title 45 of the Code of Federal Regulations is hereby proposed to be amended by revising §§ 185.72, 185.74(a), 185.91(a), 185.92(b), and 185.95 (b) (1) and (3) to read as follows:

§ 185.72 Authorized activities.

(a) Funds made available under this subpart shall be used to pay the normal and necessary expenses of researching, planning, writing, editing, staging, directing, performing, producing, reproducing, and distributing integrated children's television programs where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such programs shall be a standard-length series addressing one of the following areas of concern:

(1) Improvement of written and oral expression at the secondary level.

(2) Enrichment in the understanding of children for the cultural attainments of their own and other racial or ethnic groups.

(3) Reduction of inter-racial and inter-ethnic conflict and tension.

(4) Meeting the special needs of [illegible] groups of minority group as defined in § 185.92(1) which may be unique to a particular geographic region through a program series intended for [illegible] than [illegible]; and

(5) Initial reading attack experiences focused upon children entering the first grade level of elementary school.

(20 U.S.C. 1610(b)(1))

(b)(1) No more than one grant for a standard length series shall be awarded for any one of the areas of concern described in paragraphs (a) (1), (2), (3), and (5) of this section in any fiscal year, and no more than three grants shall be awarded for "regional" programming as described in paragraph (a)(4) of this section in any fiscal year, unless the Assistant Secretary determines that the applications pending before him for additional grants for programming directed to the same area of concern are of exceptional merit or promise.

* * * * *

(3) Grants awarded for "regional" programming as described in paragraph (a)(4) of this section shall not exceed $250,000 in amount.

(20 U.S.C. 1610(b)(1))

* * * * *

§ 185.74 Criteria for assistance.

In approving applications for assistance under this subpart the Assistant Secretary shall apply the following criteria:

(a) *Needs assessment (10 points).* The extent to which the applicant has undertaken a comprehensive assessment, on the basis of test data, audience surveys, and other objective evidence, of the educational and other needs of the target population, and the magnitude of the needs so assessed.

(20 U.S.C. 1610(b)(1))

* * * * *

§ 185.91 Eligibility for assistance.

(a) *Special reading projects.* (1) Any local educational agency which is implementing a plan described in § 185.11 (a) or (b) and which has substantially implemented a project for which assistance was awarded under this subpart prior to July 1, 1973, may apply for assistance by grant or contract from funds reserved pursuant to § 185.95(b)(1) for special reading projects to improve the reading performance of minority and nonminority group children in a school affected by such a plan in which the proportion of minority group children enrolled is greater than 20 percent and no more than 50 percent.

(2) No more than $2,500,000 from funds reserved pursuant to § 185.95(b)(1) shall be awarded for grants or contracts pursuant to this paragraph during the fiscal year ending June 30, 1974.

(3) For purposes of this paragraph, a project for which assistance was awarded prior to July 1, 1973, shall be considered substantially implemented if it has prior to December 1, 1973:

(i) hired at least 75 percentum of the staff members proposed in the application for assistance,

(ii) implemented the instructional program proposed in such application in [illegible] percentum of the classrooms proposed to participate by such application, or in a lesser percentage of [illegible] classrooms containing 75 percent [illegible] the children proposed to be involved by such application; and

(iii) purchased or ordered all materials required for such projects for the first semester of the project year.

* * * * *

(20 U.S.C. 1607(a))

* * * * *

§ 185.92 Applications.

* * * * *

(b) * * *

(4) Evidence that the project for which assistance was awarded prior to July 1, 1973, has been substantially implemented as defined in § 185.91(a)(3);

* * * * *

§ 185.95 Reservations of funds.

* * * * *

(b) The Assistant Secretary hereby reserves:

(1) An amount equal to 4 percent of the sums appropriated under the Act for any fiscal year for the purposes of special projects under subpart J of this part;

* * * * *

(3) An amount equal to 4 percent of the sums so appropriated for the purposes of educational television projects under subpart H of this part; and

* * * * *

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Dr. Herman R. Goldberg, Associate Commissioner, Bureau of Equal Educational Opportunity, Room 2029, 400 Maryland Avenue, SW., Washington, D.C. 20202, on or before December 27, 1973. Comments received in response to this notice will be available for public inspection at Room 2029, 400 Maryland Avenue, SW., Washington, D.C. between 8 a.m. and 4:30 p.m., Monday through Friday.

(Catalog of Federal Education Assistance Program Nos. 13.530, Emergency School Aid—Educational Television and 13.532, Emergency School Aid—Special Projects)

Dated: November 9, 1973.

CHARLES B. SAUNDERS, Jr.,
Acting Assistant Secretary for Education.

Approved: December 3, 1973.

CASPAR W. WEINBERGER,
Secretary for Health, Education and Welfare.

[FR Doc.73-[illegible] Filed 12-6-73;8:45 am]

APPENDIX F:

ESA ADMINISTRATIVE APPLICATION FLOW CHART

APPENDIX F

OE/OPBE

EXECUTIVE SUMMARY

SOUTHERN SCHOOLS: AN EVALUATION OF THE EFFECTS OF THE EMERGENCY SCHOOL ASSISTANCE PROGRAM AND OF SCHOOL DESEGREGATION

PURPOSE

One major objective of this study was to evaluate the effectiveness of the Emergency School Assistance Program in improving student racial attitudes and academic achievement. A second objective was to examine the effects of school desegregation and how the desegregation process succeeds or fails. ESAP supported a wide variety of activities "designed to achieve successful desegregation and the elimination of all forms of discrimination." Thus ESAP was specific only in its goal--improving desegregated schools--but not in its means; the program suggested that a wide variety of tactics might succeed.

METHODOLOGY

The findings of the study are based on a random sample of approximately 600 schools in 103 Southern school districts receiving ESAP grants in the 1971-72 school year (the second year of ESAP, called "ESAP-II"). In that year ESAP provided $64 million to school districts, almost entirely in the South. Under contract to the Office of Planning, Budgeting and Evaluation in the Office of Education, the National Opinion Research Center conducted interviews and administered questionnaires to school officials, and administered questionnaires and a shortened standardized achievement test to over 32,000 fifth and tenth grade students.

The use of a randomized evaluation design for the first time in a large-scale education study is an important technical advance and thus merits special attention. The design randomly selected matched pairs of schools, one selected at random to receive ESAP funds, and the other to be a control school not to receive ESAP funds. This experimental design is valuable because it provides a means of directly measuring the effects of ESAP funds (since the ESAP and control schools should differ only in one way--receiving or not receiving ESAP funds).

FINDINGS

1. Uses of ESAP Funds

- ESAP funds in elementary schools were used for teacher aides, in-service education for teachers, remedial programs, teaching materials, and counseling. High schools used ESAP funds for human relations programs, instructional materials, teacher aides, curriculum modification, and extracurricular activities.

- The important difference between elementary schools and high schools is that high schools spent ESAP funds to change the way in which the school dealt with racial issues, while elementary schools used ESAP funds to develop a traditional program oriented toward cognitive development.

2. Overall Effectiveness of ESAP

Had there not been the randomized experiment discussed in the METHODOLOGY section above, it would have been necessary to compare schools deemed in need of ESAP funds with those that were not; no matter what statistical techniques were used to attempt to make the two groups comparable, the question of whether or not differences believed to be the result of ESAP were due to some other differences between the two schools would always have remained open. Fortunately, the randomized design avoids these difficult problems.

- Black male high school students gained in achievement through ESAP. Their test scores were almost one-half grade level higher than black male students in matched control schools that received no ESAP funds.

- There is no evidence that ESAP raised the achievement of whites at either grade level, elementary school blacks, or female high school blacks. Yet the gains for black high school males are important because they have the lowest levels of achievement.

- There were no overall gains in student racial attitudes for either race or grade level as a result of ESAP. Favorable or unfavorable race relations effects may well exist, but it is clear that race relations in schools are complex--schools that have good student racial attitudes are not conveniently also uniformly low in racial tension and high in interracial contact, for example.

- Although not analyzed in detail, it appears that ESAP may have changed high schools in such a way that the black students in ESAP high schools are somewhat more likely to view the staff as supporting desegregation than blacks in the non-ESAP high schools.

3. Effectiveness of Specific Educational Programs

In addition to investigating the overall impact of ESAP, the evaluation examined the effectiveness of particular ESAP programs or activities and of other school activities not funded by ESAP. The search was very wide; over 40 activities were examined, ranging from remedial reading programs, to specialists of various types in the school to educational materials. Again, activities were studied for possible effectiveness in two areas: improving student racial attitudes and achievement. The unique methodological advantages of the randomized experimental design do not apply to this analysis.

- No activities were found to have consistently favorable effects on either racial attitudes or achievement for both race and grade levels.

- The achievement gain for black male high school students through ESAP could not be attributed to specific ESAP activities but to the climate ESAP helped to create. As noted earlier, it appears that the big difference between high schools, where ESAP partially succeeded in raising achievement, and elementary schools, where it did not, is that only high schools tended to spend ESAP funds to change the way racial issues were handled. This seems to be due to: (1) the different uses of ESAP funds in elementary and secondary schools, (2) the fact that blacks in ESAP high schools were more likely than blacks in the matched control (non-ESAP) high schools to perceive the staff as pro-integration, and (3) the fact that blacks in ESAP high schools were more likely than blacks in the control schools to report that they like school.

- There is evidence that human relations activities--student human relations programs, teacher human relations programs (not general teacher education programs), and human relations literature--were effective in improving the racial attitudes of urban white students at both grade levels, but especially in high schools. ESAP provided substantial support for such activities at the high school level.

Gains in white students' racial attitudes are especially encouraging because their racial attitudes were less equalitarian than those of black students. Here ESAP human relations activities seem to have partly succeeded; they apparently helped improve urban white racial attitudes but not those of rural whites.

. Basic instructional services programs--such as remedial programs, remedial specialists, and teacher aides--were not effective either in improving racial attitudes or in raising achievement in this sample of Southern desegregated schools. There is some evidence, however, that the heavy utilization of instructional equipment for students to use (perhaps supplemented by an audio-visual specialist in the school), raises student achievement in high schools. The report suggests further research and experimentation in this area rather than extensive implementation of such programs; few schools in this study had audio-visual specialists and over the years other studies have documented examples of instructional equipment lying unused in schools.

. Ability grouping or tracking programs had effects on student racial attitudes; although ESAP did not fund these programs, they were reviewed. Although 85 percent of elementary schools report using some ability grouping within classrooms, this practice is associated with less favorable racial attitudes for students of both races. Ability grouping between classrooms had negative effects in elementary schools, leading to less favorable attitudes for both races as well as less interracial contact.

. At the high school level, there is no evidence that schools with high levels of tracking or high levels of classroom segregation had students with more unfavorable racial attitudes. The only high schools where classroom segregation and tracking had negative effects on white student attitudes were schools that were both rural and conservative in their approach to race relations; otherwise, there were no negative effects. The study hypothesizes that tracking is not harmful to racial attitudes for high school students in part because very few schools use tracking to segregate students in non-academic activities. At the same time, the somewhat limited interracial contact in academic classes may be more conducive to interracial friendship because the students are of similar levels of performance or ability.

4. Effects on Integration on Achievement

- The effects of school racial composition on achievement were generally small. Both races did less well in schools that were over 70 percent white, and most groups did best in racially mixed schools (41-70 percent white). Fears that white achievement has suffered because of Southern school desegregation appear to be unfounded.

- What goes on within a desegregated school has important effects on the achievement of both races. The racial atmosphere is important. Liberal white racial attitudes seem to improve black performance at both grade levels. Racial tension is detrimental to white high school students' achievement. In short, the quality of race relations within desegregated schools is an important concern.

5. Other Ways Schools Can Affect Race Relations

The report presents important findings for three areas of school race relations: (1) student racial attitudes, (2) student feelings of "belonging" in their school, and (3) teacher prejudice and behavior.

- Students of both races (with the exception of high school blacks) have more positive racial attitudes the longer their experience with school desegregation. Furthermore, both races tend to have more favorable racial attitudes when the staff is pro-integration. White urban students' racial attitudes are more favorable when the school clearly operates in a nondiscriminatory fashion (as indicated by such factors as desegregation of both PTA officers and the student leadership in the school as well as interracial contact among the teachers).

- Students were asked if they felt they belonged in their school. Whites and blacks at both grade levels felt more at home on their own turf; that is, whites were more comfortable in predominantly white schools and blacks were more comfortable in predominantly black schools. While desegregation places a great deal of strain on students of both races, as evidenced in the above findings, the school is not the powerless victim of its racial composition. Black students are more comfortable when they feel that their teachers support desegregation. White students are more comfortable when desegregation is proceeding smoothly, with teachers reporting few desegregation problems and no cancellation of high school activities due to race problems.

- Teachers' personal feelings about race are not easily changed, but the way they react to the desegregated school, and more importantly, the way their actions are perceived by their students, can be changed. The key appears to be having a racially liberal (or, possibly, a black) principal. This is especially significant for black high school students, who appear to be more sensitive to the actual behavior of teachers than to their racial attitudes. If the principal sets a tone of fairness and tolerance for the school, the teachers tend to conform to these standards; as a consequence, blacks react favorably and view the staff as supporting desegregation. ESAP may have made a contribution to this: black students in the ESAP high schools were somewhat more likely to view the staff as supporting desegregation than were black students in the control (non-ESAP) high schools. (However, there is no relationship between having liberal racial programs in the school and black students' perception of staff support for desegregation.)

6. Effects of Busing and Attending Neighborhood Schools

- With the exception of the statements below, there were no effects of these variables (amount of busing and attendance in neighborhood schools) on educational outcomes.

- Schools where more white students were bused had noticeably lower levels of tension than schools where fewer whites are bused. This is not inconsistent with another finding of the report--that schools that were predominantly black had generally good race relations.

- There is a weak finding that achievement was lower for whites who attended schools in black neighborhoods, but further analysis, using more refined statistical techniques, finds no such negative effect on white achievement.

Reference

Robert L. Crain and others, Southern Schools: An Evaluation of the Emergency School Assistance Program and of School Desegregation, 2 volumes, Chicago: National Opinion Research Center, 1973.

APPENDIX G

NATIONAL ADVISORY COUNCIL
ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Minutes of the Meeting - 6

U. S. Office of Education, 50 Fulton Street
San Francisco, California

December 13-14, 1973

1.0 Preliminary Business

1.1 Call to Order

The sixth meeting of the National Advisory Council on Equality of Educational Opportunity was opened by Chairman Dale Parnell at 9 a.m. on December 13, 1973, in Room 406 of the U. S. Office of Education, 50 Fulton Street, San Francisco, California.

1.2 Roll Call

Present were: Dale Parnell, Chairman: Gwen Awsumb, June Cameron, Loftus C. Carson, T. Winston Cole, Lawrence Davenport, Abbot Joseph Gerry, Jacquelyne Jackson, Edward Meyers, Haruko Morita, Richard Pesqueira, and Lyman Pierce. Jackson Lee, Frederick Mosteller and Carmen Rodriguez were unable to be present.

1.3 Introduction of Guests

Alfredo Villa, Alfred Fain, John Summerfield, Leo Lorenzo, Sylvia Martin, Lulamae Clemons, Armond D. Martin, Frank J. Alderete, Brian Williams, Benjamin Richardson, Robert A. Crumwell, Grandvel Jackson, Mary Anne Faris, Joseph P. McElligott, Ralph J. Kiff, Malcolm Davis, Willis Posfillion, Ted Neff, Horace C. Anderson, Ron Moskowg, Edward Aguirre, and Warren Burton.

U. S. Office of Education Personnel

Dr. Herman Goldberg and Elton Ridge of the U. S. Office of Education, Equal Educational Opportunity.

Staff Personnel

Jerry Fuller, Executive Director, and Agnes Mussmecher.

1.5 Approval of Minutes

Loftus Carson moved and June Cameron seconded the motion that the minutes of the September 13-14 meeting be approved as written. Motion carried.

1.6 Staff Report

Chairman Parnell gave a brief report on his recent visitation to Pasadena School District as part of the Council's thrust for on-site visitations to review the operation of the Emergency School Aid Act. His general comments were that Pasadena has desegregated and have worked hard at it but integration is the next big step.

Executive Director Fuller explained the on-site visitation forms and procedures. He said that a letter and a Grantee Information Report form would be sent to each regional commissioner in which they will be asked to execute for each ESAA project funded in their region for which they have monitoring responsibilities. Once the staff receives this information, selection of site visitations will be made. Council recommended that staff use a stratified random sample when sites are selected for visitations. Once the project for the site visitation has been made, and arrangements made for the visitation, a staff member will go to the site a day prior to the Council member's visitation to gather all necessary information. Staff will set up the visitation schedule, notify the Council member located in that area, and make all the arrangements.

A case study will be written after each visitation and these reports will be turned over to T. Winston Cole and his report writing committee for the next Council's Report on a series of case studies of how desegregation is working and how ESAA funds are being used.

Consensus of the Council is that the visitation forms and procedures be accepted as written and if any Council member has any suggested changes or additions to let the staff know.

2.0 Report by Regional Commissioner of Education

Dr. Edward Aguirre, Regional Commissioner of Education, was introduced. He said that Region IX has a substantial number of people from each of the following minorities: Black, Spanish Surnamed, Oriental, and Native American. Their region covers Arizona, Nevada, California, Hawaii, Guam, American Samoa, and the trust territories. As two of the states border Mexico, there are a large number of first and second generation Mexican pupils attending schools. Because of the diversity of minority groups and many children attending racially isolated schools, there is a real need for ESAA funds. Some of the problems they have encountered relative to the implementation of ESAA is that the writing of proposals is very time consuming. Another problem is determining financial need which is one criterion for determining fundability. They feel that a study should be made to determine the feasibility of funding on an equalization factor basis.

There is a need to clarify the extent of involvement and the degree of reduction of racial isolation required of nonpublic schools. Some of the problems and issues faced are that public schools are required to have a plan to reduce, prevent, or eliminate racial isolation as a basis for eligibility, but nonpublic schools are not. Public schools are required to sign an assurance that participating nonpublic schools are not engaging in discriminatory practices. They would recommend that regional workshops be held to discuss the problems and issues relating to providing services to nonpublic schools.

In their region they have school districts with 80 percent and more minority children with no way of adopting a plan to reduce racial isolation and so are not eligible for funding under ESAA. These school districts need additional funds to help overcome the affects of racial isolation and so they recommend that legislation be changed to enable the Office of Civil Rights to determine if a district is eligible to apply for funds. (Report on file with minutes).

3.1 Legislative Report

Richard Pesqueira and Larry Davenport gave a report of their two meetings in Washington, D. C. with Congressional representatives to gather information of anticipated legislation as it pertains to ESAA. They gave their observations of what they think the Council ought to be doing and where the Council ought to be headed. They were appointed by Chairman Parnell as the Legislative Liaison Committee for the Council.

Richard Pesqueira said education is not the uppermost concern in the legislator's minds. Also, many of the persons responsible for writing regulations are not educators but lawyers. Only three out of nine programs funded under ESAA have to do with desegregation. Concern has been expressed about the surplus money returned to the Office of Education. Need more information about why this was done. It was felt that if it were not for the Set Asides, very little beneficial education would be available to students.

Larry Davenport said to spend a lot of time on regulations would be meaningless at this time because the major concern should be on future legislation. He noted criticism of the Office of Education and the intent of the law, and very few legislators expressed support for the Office of Education. He said the National Institute of Education has not taken a position. He cannot see ESAA being continued in its present form. There are different interpretations in Congress of what ESAA was designed to do and what the Office of Education has set up in the way of regulations to carry out the Act. In future legislation, the administration of the Act should be written out in greater detail in law.

Chairman Parnell asked each Council member to express their concerns about the legislation, based upon their feelings up to this date.

Lyman Pierce read a report on proposed school desegregation by Jerome Buckanaga, who is presently the Director of a five-point Indian school in Minnesota. Mr. Buckanaga's testimony stated that at this time the Indian community does not agree with the process of desegregation. He feels that by desegregating all-Indian schools on reservations would decrease the movement of Indian community control of Indian education. He feels this would cause a breakup of Indian communities and termination of tribes. Lyman Pierce said these were not necessarily his views but Indians are in the ESAA legislation and he is asking the council to deal with these concerns. He said they are not so concerned about not mixing with the mainstream but they are concerned that they have to develop themselves until they have their people at the point where they have the inward strength of who they are and can therefore handle cultural diversity and cultural pluralism. They are not promoting segregation.

Also, laws and treaties dealing with Indians cast quite a different light on the problems of Indian education. Jacquelyne Jackson stated that one concern with ESAA is that you cannot combine too many disparate groups and expect to achieve enviable results.

Council recessed for lunch at 12:30 p. m.

Meeting reconvened at 1:50 p. m.

Analysis of
ESAA Law and
Recommendations
for Change

Executive Director Fuller presented six legislative discussion topics to the Council. Each discussion topic is accompanied by a background statement and a brief discussion relating to the topic. Chairman Parnell said the Council should agree in principle but let the staff develop appropriate wording.

The first issue was should ESAA be focused on the narrow subject of desegregation or those things that are incident to desegregation, or should it remain as it is, or take some other direction that would allow for a broad compensatory education kind of activities?

Grandvel Jackson, of the San Francisco Unified School District who works directly with the ESAA activities, was asked to relate some of his impressions. He said you have to believe in what you are doing and need to have a commitment to total integration of schools. He said above all the Council should not let ethnic groups play the money game against each other. He does feel that the money they are receiving from ESAA has been effective in what they are trying to do.

Ed Meyers opened a discussion on whether or not a school district can be helped with compensatory education and/or Title VII. It was stated that one should not assume that because a student comes from a segregated area that he will need compensatory education. Another stated that reduction or racial isolation is really the first thing that happens and then compensatory education comes after that if it is needed. The reduction of racial isolation is a separate legal problem from everything else in education and it should be treated separately from our recommendations to Congress.

Discussion continued along the lines of court-ordered problems, the encouragement of voluntary action, and how you can help resolve integration problems.

> Loftus Carson moved and Richard Pesqueira seconded the motion that future Emergency School Aid Acts be delimited, by excluding compensatory education aspects from the Act. Those activities to be included should involve desegregation or activities incident to desegregation. The Council should encourage legislation directed to alleviate court order situations, encourage voluntary desegregation, and help resolve problems of integration.

Further discussion followed. It was brought out that just because compensatory education is not included in this motion does not mean that the Council does not approve of it. It was mentioned that Title I includes compensatory education but some of the Council members felt it should be included, for some schools are not eligible for Title I funds but are eligible for desegregation funds.

Executive Director Fuller said some of the amendments discussed can be included in the Council's final report to Congress.

> Motion carried. Ed Meyers and Lyman Pierce abstained from voting and Gwen Awsumb voted no.

Ed Meyers added an amendment to the motion.

> Ed Meyers moved and June Cameron seconded the motion that, in addition to our concern for fairness in the actual process of desegregation, the NACEEO maintain an interest in various needs which, in certain particular instances, can be incidental to the desegregation process.

Further discussion followed.

> T. Winston Cole moved and Jacquelyne Jackson seconded the motion that this Council accept the principle changes being voiced in Ed Meyer's motion and leave the clarification of the wording to the report writing committee.

Chairman Parnell said it was not necessary to have the substitute motion but to act upon the principle of Ed Meyer's motion and the report writing committee would be directed to develop the principle.

> The principle of Ed Meyer's motion carried. Lyman Pierce abstained from voting.

Council recessed at 5:15 p.m.

Council reconvened at 8:15 a.m. on December 14, 1973.

3.2 Analysis of ESAA Law and Recommendations for Change

Council members continued their discussion on legislative topics with the following issue: Should comparability be a legislative requirement of the ESAA?

Discussion centered around the issue of a one-year grant or multi-grants to school districts. As an example, should school districts receive 100 percent the first year, say 60 percent the second year, and 30 percent the third year? It was felt that this would be a mature way of facing the problem.

> Larry Davenport moved and Jacquelyne Jackson seconded the motion that in the future ESAA legislation be designed so that the grants are awarded on a multi-year basis with decreasing federal participation. Motion carried.

Chairman Parnell asked Doctor Goldberg if the Council should draft some kind of definition of "incident to desegregation" that would be helpful in advising the Office of Education in administering this Act. Doctor Goldberg replied that it would be very helpful provided it were in gross categories. He was also asked where the majority of the ESAA money is going and what it is being used for, and he replied that it goes for additional staff to provide human relations efforts, plus compensatory education services.

Chairman Parnell appointed Loftus C. Carson as Chairman and Abbot Joseph Gerry as a two-member committee to work on a rough draft statement of "incident to desegregation" and to have this statement ready for the next Council meeting.

Executive Director Fuller read portions of a letter he had received from Richard E. Duffy, Assistant Director of Governmental Programs of the Division of Elementary and Secondary Education of the Department of Education in Washington, D. C. whereby he requested that the Council allow Mr. Joseph P. McElligott to be on the Council's agenda to express the concerns of nonpublic schools regarding participation in the ESAA.

Mr. McElligott was introduced, and he in turn distributed to Council members a written draft statement of their concerns. Mr. McElligott is a member of California's Equal Educational Opportunities Commission and Director of Education for the California Catholic Conference. (Testimony on file with minutes).

Of particular concern to them is the equitable participation of eligible nonpublic school students in ESAA. They are concerned about program planning in that they are advised at the 11th hour and therefore do not have adequate time to submit proposals. They are asking for at least one month's notice. They are concerned about the "bypass" mechanism and are asking if it could not be reworded to include the provisions of services to those nonpublic schools committed to a policy of desegregation and the elimination of minority group isolation within an LEA jurisdiction. An area of concern is the provision of services to eligible nonpublic school children who reside in one school district but attend a nonpublic school in another district. They are asking if these services could cross over the LEA boundaries.

Doctor Goldberg stated that money cannot be given to nonpublic school systems by law. The contracting agent must be a public agency. If the public agency chooses not to apply for ESAA funds or applies and is found ineligible, the nonpublic school cannot be given funds.

Larry Davenport and Richard Pesqueira, as the legislative liaison committee, were asked to pursue the concerns of the nonpublic schools and to consider what future legislation or recommendations the Council might want to consider. They were asked to present a report at the next Council meeting.

7.0 Reports by Dr. Herman Goldberg

Dr. Herman Goldberg, Associate Commissioner, Bureau of Equal Educational Opportunity, U. S. Office of Education, could not attend the Council's December 13 meeting as he was conducting a seminar for the Association for Supervision and Curriculum Development being held in Memphis, Tennessee. Among the topics discussed at this seminar was Educational Television. Doctor Goldberg was asked to comment on the concerns expressed by Jackson Lee on spot announcements. He said the contract calls for sixty 60-second spot announcements and thirty 30-second lift outs. Are going to produce quality spot announcements which will indicate to the nation that there is a great need for the understanding, promotion, and appreciation for the differences which exist among the many people of the United States. The spot announcements will be geared to children but will have adult potential also. The spot announcements are due to go on the air the fall of 1974.

They are dealing with the problem of what to do with a school district that gets a court order after the deadline when applications are due. Present regulations do not permit this but they are working on a plan whereby a school district may be able to submit, if they are under court order, an application not to exceed $250,000. They would have to go through the same process of submitting a good project and having it approved at the regional level before it goes to the Assistant Secretary for funding. (Handouts on file with minutes).

10.0 Status Report by Dr. Malcolm Davis

Dr. Malcolm Davis, Project Director for the Bicultural Children's Television Project located in Oakland, California, was introduced to the Council. He is employed by the U. S. Office of Education to monitor the filming of these television programs. The purpose of the project is to produce 65 one-half hour television programs funded under ESAA legislation. The films have two primary purposes: (1) to approach the children of Spanish culture to help reinforce the positive self-esteem in them which will enhance their view of themselves as well as to increase their proficiency in their native language of Spanish, as well as teach them English; and (2) to present to non-Spanish children the culture of Spanish-speaking children and to teach them some Spanish as well as to increase their appreciation of the whole concept of biculturalism.

The first two test shows were completed the middle of November. They were shown to groups of parents, teachers and children (ages four through eight) in different cities around the country. The testing was completed the first of December and the data is now being filed.

Doctor Davis said the films will belong to the U. S. Office of Education but will be available to any state, local school district, etc. and the only cost would be the cost of reproducing them. Excerpts from the test tapes will be shown to Council members at the next Council meeting.

Richard Pesqueira and Dr. Edward Aguirre commented on the BC/TV series. Richard Pesqueira said it would appear that they are asking for a special crutch that is not being asked by other ethnic groups. They feel they must hold the professional people accountable for their management decisions. They do not like the idea of bringing in someone to monitor the program because they are creative but not good business people, and they would hope that this will be a weaning process and they should be held accountable.

9.0 Meeting with U. S. Civil Rights Commission and Rand Corporation

Executive Director Fuller gave a short report on the November 1-2, 1973, meeting in Washington, D.C. he and Jacquelyne Jackson and Carmen Rodriguez had with the U. S. Civil Rights Commission and the Rand Corporation. The Rand Corporation was awarded a contract this past summer to come up with a desegregation design that would give data on how effective desegregation has been in the achievement of minority students. General consensus at the meeting the first day was that the Rand Corporation should redo the design because the kinds of questions being asked would be more detrimental to desegregation than helpful. Goals of study were not clear. The same concerns were expressed the second day when meeting with the Office of Civil Rights. Rand Corporation has agreed to redo the design and another meeting will be held.

Discussion followed on the pros and cons of such a design. The question was asked if minority children are developing the coping skills in comparison with their counterparts.

11. Report on National Indian Education Conference

Lyman Pierce, Loftus C. Carson and Haruko Morita gave a report on the National Indian Education Conference they attended in Milwaukie, Wisconsin on November 14-16, 1973.

Lyman Pierce said the theme of the conference was "Education on Indian Terms." The conference was well attended with 4500 - 6000 people. The conference was geared to how you can address the problems that affect every community as it pertains to programming. They were concerned about higher education consortium, urban education.

Haruko Morita was impressed with the dedication and sincerity of the people who attended the conference.

Loftus C. Carson thanked the Council for allowing the three of them to attend the conference. He feels that in the Council's final report they need to stress what the Council has found to be some specific problems.

Chairman Parnell asked Lyman Pierce to draft a position statement on Indian education in delimiting the ESAA money to desegregation activities.

H.0 Report by Warren Burton

Warren Burton, Director, ESAA/Title IV, of the State Department of Education, Olympia, Washington, was introduced. He shared his concerns about ESAA by indicating the effectiveness of the program in fulfilling congressional intent and in meeting the needs of the states. Their biggest concern is the evaluation of ESAA. On the positive side, they feel that some gains are being made and that the program is meeting the intent of Congress. (Report on file with minutes).

Next Council Meeting

The next Council meeting will be held in Washington, D. C. on January 31 and February 1.

Chairman Parnell said that because of flight schedules and prior commitments of several of the Council members, the December meeting had to be shortened but that he intended the January 31 and February 1 meeting to be a full two-day meeting.

Meeting adjourned at 12:30 p. m. on Friday, December 14, 1973.

Council Chairman

Jerry Fuller

Council Executive Director

FIRST INTERIM REPORT

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

December 1973

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

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Jerry Fuller
Executive Director
Room 225, U.S. Courthouse
620 S.W. Main
Portland, Oregon 97205

FIRST INTERIM REPORT

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FOREWORD

This Interim Report covers eight months of the operation of the National Advisory Council on Equality of Educational Opportunity. In that time, the first federal grants to aid in public school desegregation under the Emergency School Aid Act were made, but evaluation of the influence of ESAA-funded programs in advancing the ideal of equal educational opportunity in terms of achievement of students cannot be made for some time to come.

We are determined, as a Council, to assist the Congress and the Administration in every way we can to implement the national policy on equality of educational opportunity, and we feel deeply privileged to have been appointed by the President to this high calling.

There are many encouraging signs of progress being made by minority groups in the United States. To detail the positive and hopeful developments in education in America at this time is not within the scope of this brief Interim Report, however, we do want to acknowledge our recognition of and appreciation for good things that are happening in this country. At the same time, we feel we can besf serve by asking questions, which we do in the form of the Recommendations which follow in Section I.

INTRODUCTION

The historic U.S. Supreme Court decision of 1954, *Brown v. Board of Education, et al.*, outlawed public school desegregation. In 1955, the Court ruled that public school desegregation shall proceed with all deliberate speed, and, in 1956, the Court ruled that any form of racial segregation *per se* was unconstitutional. Over the intervening two decades, considerable desegregation has occurred, but much segregation remains, particularly in education. While some previously segregated school districts desegregated voluntarily and complied with court-ordered desegregation, many attempted to circumvent the law by avoiding desegregation. Despite such difficulties, however, the federal government has persistently promoted school desegregation since 1954.

As an instance of federal efforts, the Emergency School Assistance Program (ESAP) of 1970 was established as a temporary measure to provide financial assistance for school districts experiencing problems incident to desegregation. This program was succeeded by the Emergency School Aid Act (ESAA) of June, 1972, under Public Law 92-318, Title VII. ESAA was specifically enacted to provide financial assistance:

"(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

"(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

"(3) to aid school children in overcoming the educational disadvantages of minority group isolation."

The Assistant Secretary for Education, Department of Health, Education, and Welfare, was authorized to implement the Act, and $227,940,000 was appropriated for that purpose for Fiscal Year 1973. Section 716 of the Act required the President to appoint a 15-member National Advisory Council on Equality of Educational Opportunity (NACEEO), with at least half of its members being representative of minority groups. Its specific purpose was to:

"(1) advise the Assistant Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

"(2) review the operation of the program (A) with respect to its effectiveness in achieving its purpose as stated in section 702(b), and (B) with respect to the Assistant Secretary's conduct in the administration of the program;

"(3) meet not less than four times in the period during which the program is authorized, and submit, through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

"(4) not later than December 1, 1974, submit to the Congress a final report on the operation of the program."

The National Advisory Council on Equality of Educational Opportunity was established on January 30, 1973, and has been in operation since that time.

In accordance with the mandated purposes of NACEEO, this is its first interim report covering its activities between February 1, 1973, and July 31, 1973, and its recommendations about the operation of ESAA. The report itself contains two major sections: (I) Summary of Recommendations, and (II) NACEEO Activities and Detailed Recommendations. An Appendix is also included.

SECTION I: SUMMARY OF RECOMMENDATIONS

RECOMMENDATION A. 1a. The National Advisory Council on Equality of Educational Opportunity requests that in the future it be permitted early and active involvement in any modifications of Emergency School Aid Act regulations.

RECOMMENDATION A. 1b. NACEEO recommends that the Assistant Secretary determine the extent to which the public has sufficient time to advise him about proposed ESAA regulations and, in the event that sufficient time does not exist, suggests appropriate remedial action.

RECOMMENDATION A. 2a. NACEEO requests that in the future it be permitted early and active involvement in the development of criteria for the approval of ESAA applications.

RECOMMENDATION A. 2b. In the event that any school district eligible for ESAA participation is prevented from that participation because it lacks sufficient resources to develop an application, the Bureau of Equal Educational Opportunity should take the necessary remedial action to achieve application parity in this respect.

RECOMMENDATION A. 2c. 1. In the event that some potential ESAA applicants have difficulty in receiving ESAA financial assistance because they have already complied fully with the reduction of minority group isolation and, hence, do not receive eligibility points for same, NACEEO recommends that the application criteria be reevaluated.

RECOMMENDATION A. 2c. 2. An operational definition of "problems incident to desegregation" provided by Congress is needed.

RECOMMENDATION A. 2d. NACEEO recommends that the Assistant Secretary evaluate carefully the structure and function of the Panel Review in the application process, and, in the event that some changes are deemed feasible, initiate the appropriate remedial action for same.

RECOMMENDATION A. 3a. The Assistant Secretary should regularly compile all legal decisions in the field of equal educational opportunity and desegregation. The compilation should be accompanied by an analysis of the meaning of each decision, particularly as it relates to state and local educational administration. The compilation and analysis should be sent regularly to each state educational agency for dissemination to local school districts and other users of the information.

RECOMMENDATION B. 1a. Future legislation should provide specific monies for adequate evaluation of the educational achievement statuses and impacts of programs upon changes in those statuses for each specific minority group identified as a target group in that legislation. In addition, such an evaluation should include data about each sex within such group.

RECOMMENDATION B. 1b. Participants in such evaluative research mentioned in RECOMMENDATION B. 1a. must include evaluation professionals from minority groups.

RECOMMENDATION B. 1c. The Assistant Secretary is requested to give careful consideration to increasing the NACEEO budget to allow for sufficient funds to carry out the activities detailed in NACEEO activities.

RECOMMENDATION B. 1d. Greater emphasis should be placed upon evaluating school curricula and their relationships to occupational and other real life requirements.

SECTION II. NACEEO ACTIVITIES AND DETAILED RECOMMENDATIONS

A. ADVICE TO THE ASSISTANT SECRETARY

1. **Preparation of regulations.** Between February 1 and July 31, 1973, the National Advisory Council on Equality of Educational Opportunity had minimal involvement in preparing ESAA regulations. Greater NACEEO involvement in this task in the future is highly desirable.

a. At its inception, NACEEO provided *pro forma* approval of ESAA basic regulations already prepared under the aegis of the Assistant Secretary, even though NACEEO was not provided with a complete or readable copy of these regulations. Subsequent advice NACEEO submitted to the Assistant Secretary through the Associate Commissioner of the Bureau of Equal Educational Opportunity (BEEO) did not result in any modification of those regulations. NACEEO requested that, in the future, sufficient time be allowed for it to deliberate carefully about proposed ESAA regulation modifications.

On July 13, 1973, NACEEO rejected *pro forma* approval of two specific regulation modifications. The intent of both of these modifications appeared to be that of circumventing existing ESAA regulations so as to provide ESAA funds for one or more specific school districts ineligible to receive funds under the current regulations, due largely to the severity of their racially imbalanced faculties. More important, NACEEO disapproved these modifications (see Exhibit B, Appendix) inasmuch as they seemed in opposition to the law or those modifications which appear to be in opposition to the law and the spirit of the Act itself, and their approval was unfair to all other school districts which either complied with the regulations or refrained from applying for ESAA assistance because they did not or did not wish to meet these eligibility requirements.

RECOMMENDATION A. 1a. Inasmuch as Section 716 (a) (1) of the Emergency School Aid Act specifically authorized NACEEO to be involved in the preparation of regulations, NACEEO respectfully requests that in the future it be permitted early and active involvement in the preparation of any ESAA regulation modifications.

b. Some individuals and private and public organizations or agencies have complained that proposed ESAA regulations are published quite late in the Federal Register. That is, even though the publication date is technically in compliance with existing law, such individuals or organizations feel they do not have sufficient time to prepare cogent critiques of those proposed regulations. Therefore, they are hampered in providing the Assistant Secretary their reactions thereto.

Although NACEEO has no definite and representative documentation to support such allegations, it recommends that the Assistant Secretary launch an investigation to determine their validity. Should they be valid, then appropriate remedial action might be initiated to provide greater citizen input into this important program.

RECOMMENDATION A. 1b. NACEEO recommends that the Assistant Secretary determine the extent to which the public has sufficient time to advise him about proposed ESAA regulations, and, in the event that sufficient time does not exist, suggests appropriate remedial action.

2. **Development of criteria for the approval of applications.**

a. NACEEO was not and has not been involved in advising the Assistant Secretary about the development of criteria for the approval of ESAA applications.

RECOMMENDATION A. 2a. Inasmuch as Section 716 (a) (1) of the Emergency School Aid Act specifically authorized NACEEO to be involved in the development of criteria for the approval of ESAA applications, NACEEO respectfully requests that in the future it be permitted early and active involvement in that process.

b. NACEEO has, however, been briefed about those criteria by the BEEO Associate Commissioner and has studied carefully relevant available literature. In addition, NACEEO has been apprised of some problems in applying those criteria in the application process. For example, some school districts eligible for ESAA funds may not have applied because of inadequate technical assistance and, therefore, lack sufficient resources to develop the application forms. (See Exhibit D, Appendix.)

RECOMMENDATION A. 2b. In the event that any school district eligible for ESAA participation is prevented from that participation because it lacks sufficient resources to develop an application, the Bureau of Equal Educational Opportunity should take the necessary remedial action to achieve application parity in this respect.

c. Some school districts already in full compliance with court-ordered desegregation have found themselves unduly penalized in the application process because they could not receive eligibility points provided for actual physical relocation of students and faculty for racial balancing. For example, greater emphasis was placed upon physical desegregation than upon assisting school districts experiencing problems incident to desegregation. This is a partial reflection upon the ambiguity of the phrase "problems incident to desegregation," and the lack of clear-cut conceptual distinction between desegregated education and compensatory education.

RECOMMENDATION A. 2c. 1. In the event that some school districts (and thereby nonprofit organizations and nonprofit educational institutions within their geographical boundaries anxious to promote equal educational opportunities) experience difficulty in receiving ESAA financial assistance because they have already complied fully with the reduction of minority group isolation and, hence, do not receive eligibility points for same, it is recommended that the application criteria be reevaluated. Such a reevaluation should determine the feasibility of developing two sets of criteria, one specifically for school districts reducing minority group isolation physically, and the second for school districts already having reduced or ended minority group isolation, but now in the next stages of coping with problems incident to physical desegregation.

RECOMMENDATION A. 2c. 2. An operational definition of "problems incident to desegregation" provided by Congress is needed. Such a definition should distinguish clearly between desegregated education and compensatory education.

d. Although NACEEO itself does not have sufficient information at this time to evaluate carefully the role of the Panel Review in the application process, previous evaluations of ESAP as well as feedback presented to NACEEO by various individuals and groups in several meetings indicate that some consideration should be given to the utilization of these Panel Reviews, including the selection of members.

RECOMMENDATION A. 2d. NACEEO recommends that the Assistant Secretary evaluate carefully the structure and function of the Panel Review in the application process, and, in the event that some changes are deemed feasible, initiate the appropriate remedial action for same.

3. Dissemination of information of legal actions.

a. Almost daily the education community is faced with new court decisions on desegregation and equal educational opportunity. Many of these decisions conflict and, consequently, it is difficult for state and local educational agencies to determine their implications and to abide by the law.

RECOMMENDATION A. 3a. The Assistant Secretary should regularly compile all legal decisions in the field of equal educational opportunity and desegregation. The compilation should be accompanied by an analysis of the meaning of each decision, particularly as it relates to state and local educational administration. The compilation and analysis should be sent regularly to each state educational agency for dissemination to local school districts and other users of the information.

B. REVIEW OF PROGRAM OPERATION

1. Operational effectiveness of achievement of purpose.

At this point in time, NACEEO does not have sufficient data to evaluate adequately the overall or specific component operation of the implementation of ESAA. However, NACEEO's review of the planned monitoring and evaluative activities initiated by BEEO or any other relevant cooperating agency, suggests that, in most instances, sufficient data are being accumulated for this purpose.

NACEEO does believe that greater sophistication in the collection, analysis, and interpretation of data about minority group educational achievement in segregated and desegregated situations is pertinent. NACEEO especially wishes to encourage research designed to increase our knowledge and understanding of educational achievement and factors affecting achievement among specific race-sex or ethnic-sex groups, among which are black females, Puerto Rican males, Native American females, Asian-American males, or Mexican-American females. NACEEO is also concerned about the research gaps in interactive data. That is, much data pertaining to educational achievement of students in given classroom settings over the course of a year are rarely related to the larger educational environment. In addition, there is some concern about the validity, reliability, and relevance of achievement tests most often used to evaluate minority group students. Further, much of the curriculum often regarded as critical in educational achievement may not be as critical in occupational achievement.

RECOMMENDATION B. 1a. Future legislation should provide specific monies for adequate evaluation of the educational achievement statuses and impacts of programs upon changing those statuses for each specific minority group identified as a target group in that legislation. In addition, such an evaluation should include data about each sex within each such group.

RECOMMENDATION B. 1b. Participants in such evaluative research mentioned in RECOMMENDATION B. 1a. must include evaluation professionals from minority groups.

RECOMMENDATION B. 1c. The Assistant Secretary is requested to give careful consideration to increasing the NACEEO budget to allow for sufficient funds to carry out the activities detailed in NACEEO activities.

RECOMMENDATION B. 1d. Greater emphasis should be placed upon evaluating school curricula and their relationships to occupational and other real life requirements.

2. Assistant Secretary's administrative conduct.

NACEEO has been impressed with the administrative competence and efficiency of the Assistant Secretary in implementing ESAA. His sensitivity to complex problems and conflicting ideologies involved in administering any program involving educational desegregation and equal educational opportunity is outstanding. The extent to which he is interested in trying to realize the intent of the Act and the degree of flexibility in making changes to improve the overall implementation of this Act must be recognized. NACEEO has received extremely helpful cooperation and guidance from the Assistant Secretary and his staff in establishing and maintaining its operation, and he has provided expert counsel and guidance helpful in its deliberations.

C. NACEEO ACTIVITIES

NACEEO was organized February 2-3, 1973, in Washington, D.C., at which time all Council members were present. Between then and July 31, 1973, NACEEO's activities concentrated upon Council, sub-committee or executive committee meetings, inter-agency meetings, site visits, and staff operations. These activities, and the Council's budget, are summarized below. (See Exhibit A, Appendix.)

Council meetings. In addition to organization and orientation, the first Council meeting (February 2-3, Washington, D.C.) resulted in *pro forma* approval of ESAA basic regulations. The second meeting (March 2-3, Washington, D.C.) concentrated primarily upon a thorough review and consideration of set-aside regulations, as well as the structure of future NACEEO tasks.

The third meeting (April 26-27, Tampa, Florida) included an on-site visit to the Hillsborough County ESAA program; presentation of background information concerning current operation of ESAA by the BEEO Associate Commissioner, and a presentation by Robert Valder, Southern Regional Director, NAACP Legal Defense and Educational Fund. The latter presentation generated Council discussion about such issues as Panel Review utilization in the application process, disproportionate overconcentrations of black male youth being expelled or suspended from public elementary and secondary schools, and the possibility of ESAA bias in awarding community group funds to the National Urban League. Subsequently, the BEEO Associate Commissioner provided the Council with background about community group funding.

The fourth meeting (July 12-14, Warm Springs, Oregon) was devoted to an overview of factors prohibiting the Madras (Oregon) Public Schools from participating in ESAA; a presentation of the role of the Office of Civil Rights, Region X, in determining civil rights compliance by ESAA applicants; the BEEO Associate Commissioner's request that the Council approve two specific regulation modifications; and active Council discussion about its legislated role and responsibilities.

Executive meetings have been devoted primarily to administrative activities, while subcommittee meetings have been held to facilitate plans for carrying out mandated responsibilities of the Council. In addition, Council members have participated in individual and small-group site visits or other visits useful in providing additional information about the operations of ESAA throughout the various regional offices of the U.S. Office of Education.

The NACEEO staff of three, headquartered in Portland, Oregon, was primarily concerned with establishing its office during the first several months of NACEEO existence. Since then, it has provided invaluable services to the Council, and has been especially active in making numerous linkages with other agencies or organizations involved in educational desegregation. Particularly valuable has been the increasing awareness of the need for greater federal coordination and cooperation among various agencies engaged in the difficult tasks ahead. The overlaps in research and other activities, certain hostilities, and competition for ESAA funds between various local school districts within specific states, as well as competition between institutions of higher education for funds have all been noted. The staff has provided considerable insight to the Council about emergent problems, and will become more active in helping to provide investigatory information about them in the future.

NACEEO was created in June, 1972, with the signing of Public Law 92-318. Although Congress appropriated $150,000 for the operation of the Council during Fiscal Year 1973, the Council, for numerous reasons, was not officially appointed until January 30, 1973. At that time, $75,000 was established as its budget. Many activities have been initiated during the time of the Council's existence. However, the law is clear as to what Congress expects the Council to accomplish by December, 1974, namely, at least four meetings, two interim reports, and one final report on the operation of ESAA. In light of the fact that the Council was given two and a half years to fulfill its mandate, it will, actually, have less than two years to collect and analyze data and make recommendations as to the operation of ESAA and its effectiveness. This – the telescoping of one and a half years' activities into one year – was taken into consideration when the budget for FY 1974 was developed. (See Exhibit C, Appendix.)

NACEEO is concerned about the fact that ESAA established the Council under the supervision of the Assistant Secretary for Education and then empowered the Council to evaluate the Assistant Secretary's performance. In all probability, some consideration should be given to the feasibility of possible role conflicts, and the extent to which, in the future, similar legislation might contain sufficient monetary set-asides for such a Council enabling it to engage in overview evaluative activities.

In conclusion, NACEEO believes that ESAA is a useful mechanism for aiding elementary and secondary public school desegregation, and that it would be even more useful in the future if it specified more clearly the precise scope of its activities and concerns. "Problems" incident to "desegregation" could very well be broadened to include *inter alia* insufficient assistance to nonpublic schools committed to equal educational opportunity for both majority and minority students.

FIRST INTERIM REPORT — 1973 APPENDIX

EXHIBIT A

NACEEO ACTIVITIES

February 2-3, 1973	Council Meeting — Washington, D.C.
March 2-3, 1973	Council Meeting — Washington, D.C.
March 30-31, 1973	Evaluation — Denver, Colorado — National Assessment of Educational Progress
April 7-8, 1973	Subcommittee No. 2 — Washington, D.C.
April 9, 1973	Executive Committee — Washington, D.C.
April 27, 1973	Council Meeting — Tampa, Florida
May 14-17, 1973	Legislative Visitation — Dallas, Texas
May 15, 1973	Subcommittee No. 1 — Washington, D.C.
June 25, 1973	Executive Committee — Los Angeles, California
July 5-6, 1973	Legislative Meeting — Portland, Oregon
July 11, 1973	Subcommittee No. 2 — Portland, Oregon
July 12-14, 1973	Council Meeting — Warm Springs, Oregon
August 1, 1973	Legislative Meeting — Proposed changes in Regulations — Washington, D.C.
August 31 — September 1	Report Writing Committee — Chicago, Illinois
September 6-7, 1973	Evaluation — NIE — Washington, D.C.
September 13, 1973	Subcommittee No. 1 — Boston, Massachusetts
September 13-14, 1973	Council Meeting — Boston, Massachusetts

EXHIBIT B

Resolution passed by NACEEO at July 13-14 meeting in Oregon:

WHEREAS at the February meeting of the National Advisory Council on Equality of Educational Opportunity, the members were confronted with a request to approve the regulations already prepared by the U.S. Office of Education without opportunity for the NACEEO members to review same on the grounds that pressure of time produced by funding deadlines and the delay of appointment of the NACEEO precluded thorough review and NACEEO input; and

WHEREAS at the July 13 meeting of the NACEEO, members again were requested to make comments on revisions in the regulations, already scheduled for publication in the *Federal Register* on Monday, July 16, without advance review time or written statements describing the rationale for the proposed changes made by the Assistant Secretary for Education on his own initiative; and

WHEREAS the Emergency School Aid Act (PL 92-318) stipulates that the NACEEO shall advise the Assistant Secretary for Education on the preparation of regulations relating to administration of the Act;

NOW, THEREFORE

BE IT RESOLVED that the NACEEO respectfully advise the Assistant Secretary for Education that this Council does not concur with the proposed changes in the regulations; and

BE IT FURTHER RESOLVED that this Council request the Assistant Secretary for Education to take such steps as are necessary to assure that procedures in the future relating to development of regulations or revisions thereof conform with the intent of Congress and the spirit of the law, including provision for active participation of the NACEEO, and that future changes in the regulations be made effective so that applicants can compete under the same grant application requirements.

EXHIBIT C

Council:	National Advisory Council on Equality of Educational Opportunity
Legal Authority:	PL 92 318, Section VII
Estimated Budget:	$150,000
Council Functions:	FY 74

Functions

I **Advise** the Assistant Secretary with respect to the operation of the program authorized by this title, including preparation of regulations and the development of criteria for the approval of applications.

II **Review** the operation of the program: (A) with respect to its effectiveness in achieving its purpose as stated in Section 702 (b), and (B) with respect to the Assistant Secretary's conduct in the administration of the program.

III **Develop and submit**: (A) at least two interim reports during the period which the program is authorized, (B) submit a final report to Congress with respect to the final operation, and (C) meet at least four times during the period the program is in operation.

Activities impacting on functions listed above:

Activity

Function I

1 **Review** program guidelines and regulations as they relate to funding programs.

2 **Develop** and submit subsequent recommendations to amend or modify guidelines where necessary.

3 **Approve** program guidelines and regulations.

4 **Examine** (and modify) criteria for approval of project applications to assure internal consistency with eligibility requirements.

5 **Participate** in regional review panels considering ESAA project applications.

6 **Develop** and submit interim report with subsequent recommendations.

7 **Conduct** regional meetings to provide orientation for Council members regarding desegregation problems and progress as perceived by Regional Senior Program Officers and State Title IV Directors.

7.1 Obtain program information.

7.2 Elicit suggestions relative to ESAA program operation.

Function IIa A – (ESAA OBJ No. 1) Section 702

1 **Consult and confer** with program officials operating ESAA projects. Make necessary visitations to programs aimed at meeting the special needs to incident to desegregation and discrimination.

2 **Review** programs in operation to determine effects of desegregation on minority students and faculty assignments.

3 **Formulate evaluative** questions that best sample the potential intelligence of minority students. Develop and conduct survey instrument aimed at collecting program data related to program impact on minority students.

3.1 Achievement information.

3.2 Math and reading information.

3.3 Quantity and quality of support services, i.e. counseling and guidance.

4 **Compare and analyze** program information as it relates to minorities and their special needs incident to desegregation.

Function IIb A – (from page 2 – ESAA OBJ No. 2) Section 702

1 **Determine** the number of programs funded to encourage voluntary elimination, reduction, or prevention of minority group isolation.

2 **Conduct** project visitations to confer with program officials on ESAA projects.

3 **Consult** with local ESAA advisory committees to determine their involvement in planning and implementation of ESAA programs.

4 **Develop** a survey instrument to be used in sampling State Title IV staffs' perception of LEA's utilization of ESAA advisory committees.

5 **Conduct** sampling survey of ESAA advisory committees to (cross-check) ascertain their role and function in ESAA programming.

6 **Review** program evaluations (sampling) to determine extent of voluntary elimination, reduction or prevention of minority group isolation.

Function IIc A – (ESAA OBJ No. 3) Section 702

1 **Determine** educational status of minority groups named in the Act.

2 **Develop** interim report on "What Is" to identify problems, issues and educational needs of minority groups.

3 **Determine** how minority group students are developing competencies to function as learners, citizens, and wage earners.

4 **Review** projects (on-site visits) to establish whether diagnosis and prescription is a standard practice in programs aimed at overcoming the educational disadvantages of ethnic isolation.

5 **Document and analyze** promising practices that are achieving equal education.

Function III

1 **Review** proposed regulations and submit regulations to Office of Education.

2 **Develop** instrument and conduct survey of State Title IV Directors to determine federal/state working relationship during ESAA program year.

2.1 Regional/state coordination efforts.

2.2 Office of Education/regional Office of Education coordination.

2.3 Office of Education network for disseminating information on ESAA.

3 **Confer** with minority group organizations and minority communities to determine Office of Education's efforts in disseminating ESAA information.

4 **Assess** involvement of regional and State Title IV personnel in development of regulations, guidelines and criteria for eligibility.

5 **Divide** Council into two subcommittees.

6 **Establish** an information base to ascertain status of desegregation regarding:
- faculty assignments
- suspensions/expulsions
- dropout rates
- achievement

7 **Develop** knowledge base regarding:
- education policies
- court decisions
- site selection
- parental involvement

8 **Collect, organize and analyze** program data on ESAA projects for interim report.

9 **Conduct** subcommittee meetings to synthesize and finalize interim reports.

EXHIBIT D

TOTAL ESAA OBLIGATION, BY STATE AND TYPE OF ACTIVITY: FISCAL YEAR 1973

STATE OR OTHER AREA	BASIC LEA GRANTS	PILOT PROJECTS	NONPROFIT ORGANIZATIONS	METRO PROJECTS	BILINGUAL/ BICULTURAL	EDUCATIONAL TELEVISION	SPECIAL PROJECTS	EVALUATION CONTRACTS	TOTAL
1. Alabama	$ 5,887,925	$ 729,864	$ 596,728	$ 99,804			$ 178,150		$ 7,492,47
2. Alaska	76,349		46,550						122,89
3. Arizona	339,742	287,157	71,655		$ 129,878				828,43
4. Arkansas	3,377,285	558,413	435,754				107,150		4,478,60
5. California	8,221,327	387,896	1,359,045		633,806	$ 3,500,000	78,000	$ 2,280,000	16,460,07
6. Colorado	676,871	34,845	192,870						904,58
7. Connecticut	558,573	131,679	130,251	979,578	174,125				1,974,20
8. Delaware	150,665	98,452	49,371						298,48
9. District of Columbia	1,962,418	681,677	197,932		109,645				2,951,67
10. Florida	7,866,823	1,108,303	1,548,117		1,115,762		349,696		11,988,70
11. Georgia	6,155,874	901,580	1,268,093	51,000			279,399		8,655,94
12. Hawaii									
13. Idaho	115,678		21,832						137,51
14. Illinois	3,104,791		955,165			811,878			4,871,83
15. Indiana	447,883		138,507						586,39
16. Iowa	244,050		34,165						278,21
17. Kansas	614,575		102,089				209,685		926,34
18. Kentucky	739,425	175,897	263,116				137,929		1,316,36
19. Louisiana	5,623,760	986,090	1,588,490		451,310		89,462		8,739,11
20. Maine									
21. Maryland	2,043,176		401,089						2,444,26
22. Massachusetts			116,770	1,726,031		4,023,037			5,865,83
23. Michigan	1,847,454	546,942	607,237						3,001,63
24. Minnesota	535,441								535,44
25. Mississippi	3,582,759	179,009	447,944	251,690			71,000		4,532,40
26. Missouri	892,667	443,767							1,336,43
27. Montana	157,660		30,981						188,64
28. Nebraska									
29. Nevada	615,754		64,081						679,83
30. New Hampshire									
31. New Jersey	1,323,604	1,174,452	544,578						3,042,63
32. New Mexico	1,178,140	495,400			154,650		22,250		1,850,44
33. New York	11,716,609	5,575,188	1,537,498	1,906,487	1,045,060		1,723,433		23,504,27
34. North Carolina	8,571,973	45,728	959,276	99,943			242,800		9,919,72
35. North Dakota	98,500								98,50
36. Ohio	695,765	921,781	15,428						1,632,97
37. Oklahoma	2,061,530	68,940	173,340		98,950				2,402,76
38. Oregon	449,951		72,150						522,10
39. Pennsylvania	2,868,951	1,578,260	909,639						5,356,85
40. Rhode Island	1,361,971		177,834		153,163				1,692,96
41. South Carolina	4,824,802	1,250,123	945,028				44,400		7,064,35
42. South Dakota	195,776								195,77
43. Tennessee	5,052,722	493,822	217,014						5,763,55
44. Texas	13,645,549	2,039,950	2,431,362	333,519	4,615,550	1,268,730	94,900		24,429,56
45. Utah	273,541		11,500						285,041
46. Vermont									
47. Virginia	6,544,804	861,760	1,315,013			1,762,298	366,930		10,850,80
48. Washington	838,210	202,834	103,693		206,114				1,350,851
49. West Virginia	133,762								133,762
50. Wisconsin									
51. Wyoming									
52. Guam							622,095		622,095
53. Puerto Rico							428,496		428,496
54. Trust Territory/Pac. Is.							204,303		204,303
55. Virgin Islands							1,584,106		1,584,106
TOTAL	$117,675,085	$21,959,809	$20,081,176	$5,448,052	$8,888,013	$11,365,943	$6,834,184	$2,280,000	$194,532,262